

EXHIBIT C

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION
STATE OF TEXAS, et al,)
)
Plaintiffs,) CASE NO.
) 4:20cv00957-SDJ
v.)
)
GOOGLE, LLC,)
)
Defendant.)
-----)

--- --
Friday, May 17, 2024

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HIGHLY CONFIDENTIAL
PURSUANT TO PROTECTIVE ORDER

--- --
Remote Video-Recorded Oral
Fed. R. Civ. P. 30(b)(6) Deposition of GOOGLE
CHAT, BY AND THROUGH [REDACTED] held at the
offices of Veritext, 1000 SW Broadway, Suite
1660, Portland, Oregon, commencing at
9:12 a.m. PDT on the above date, before Debra
A. Dibble, Fellow of the Academy of
Professional Reporters, Certified Court
Reporter, Registered Diplomate Reporter,
Certified Realtime Reporter and Notary
Public.

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Job No. MDLG6695561
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6 DAN LAWLOR

Golkow - Veritext



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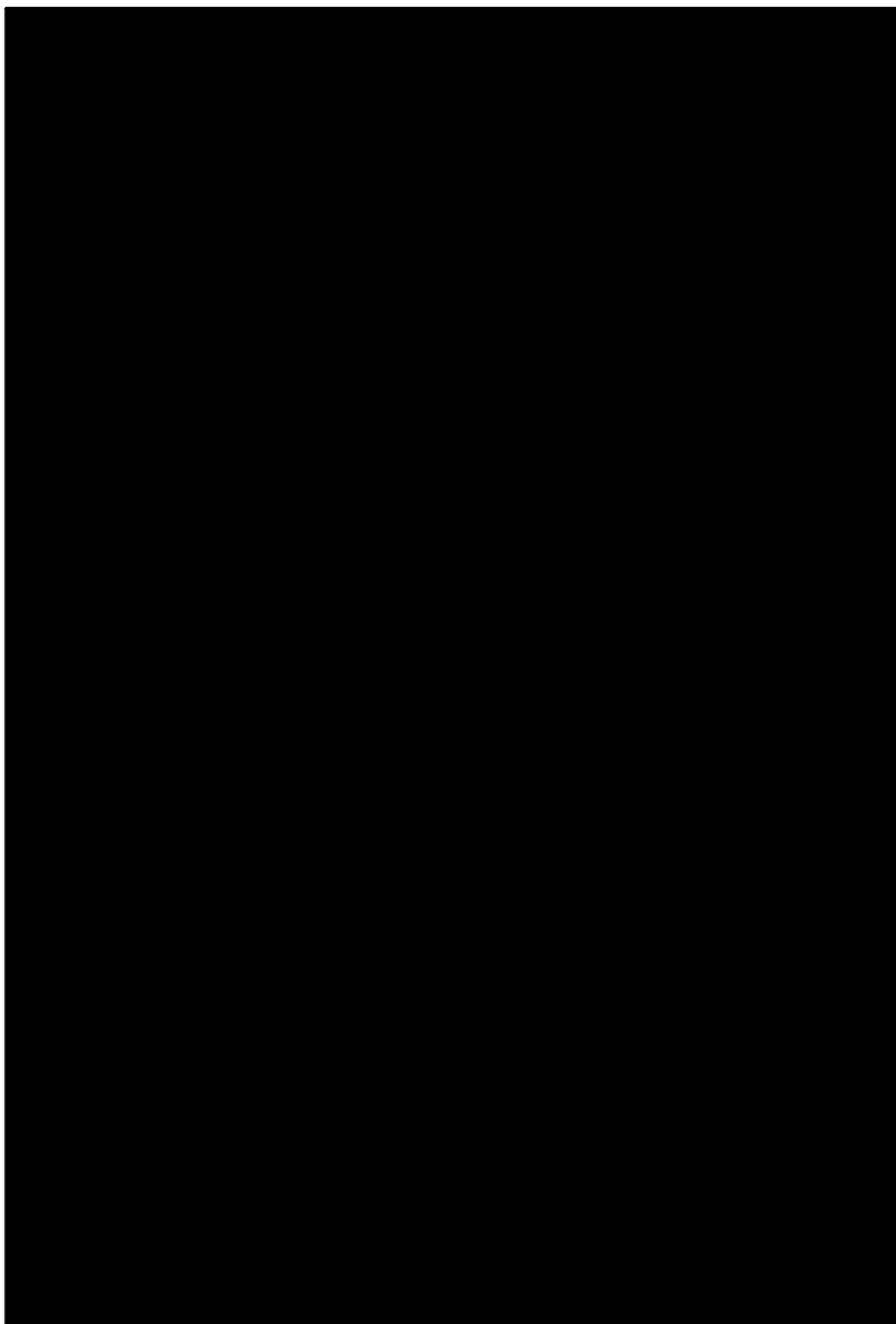
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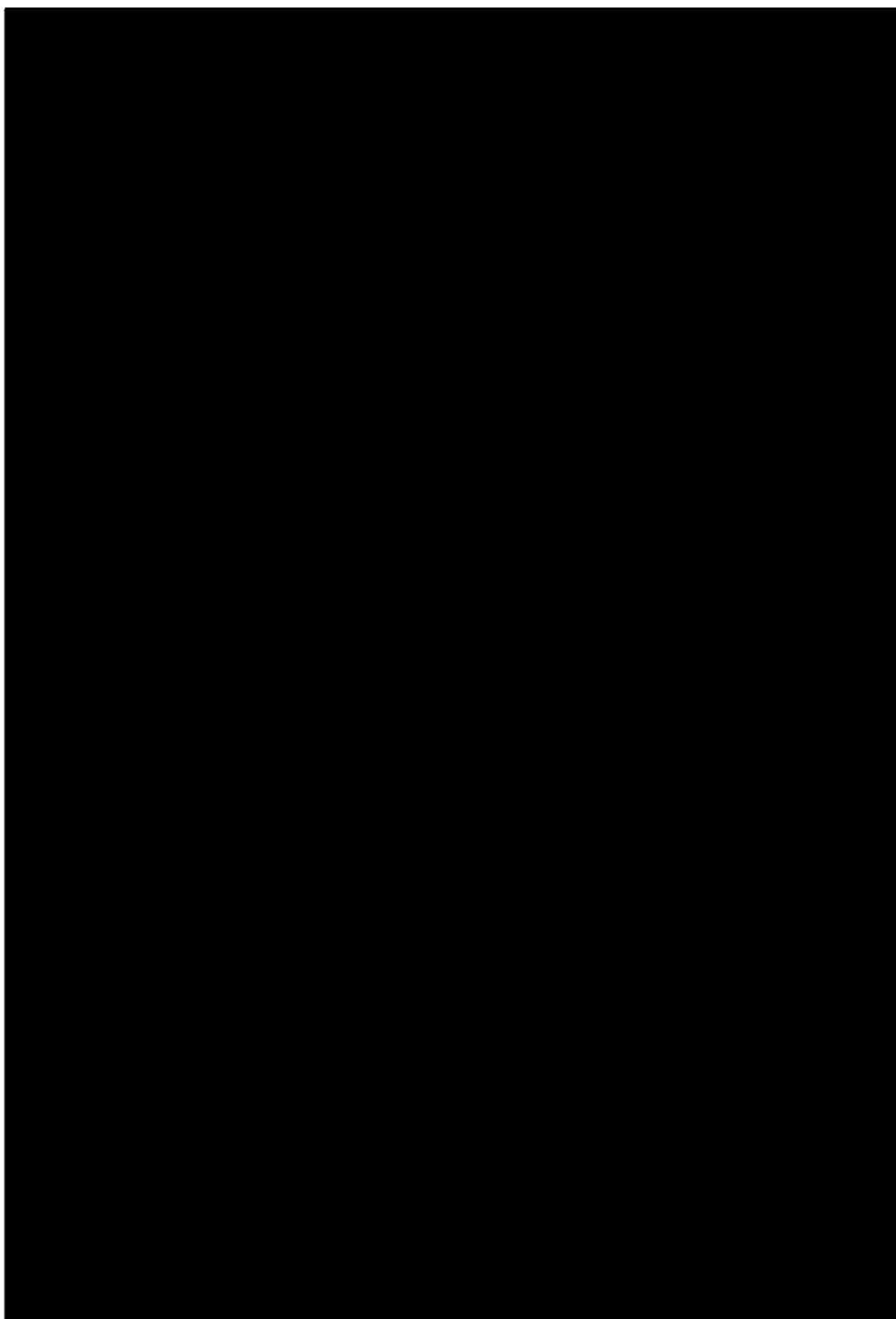
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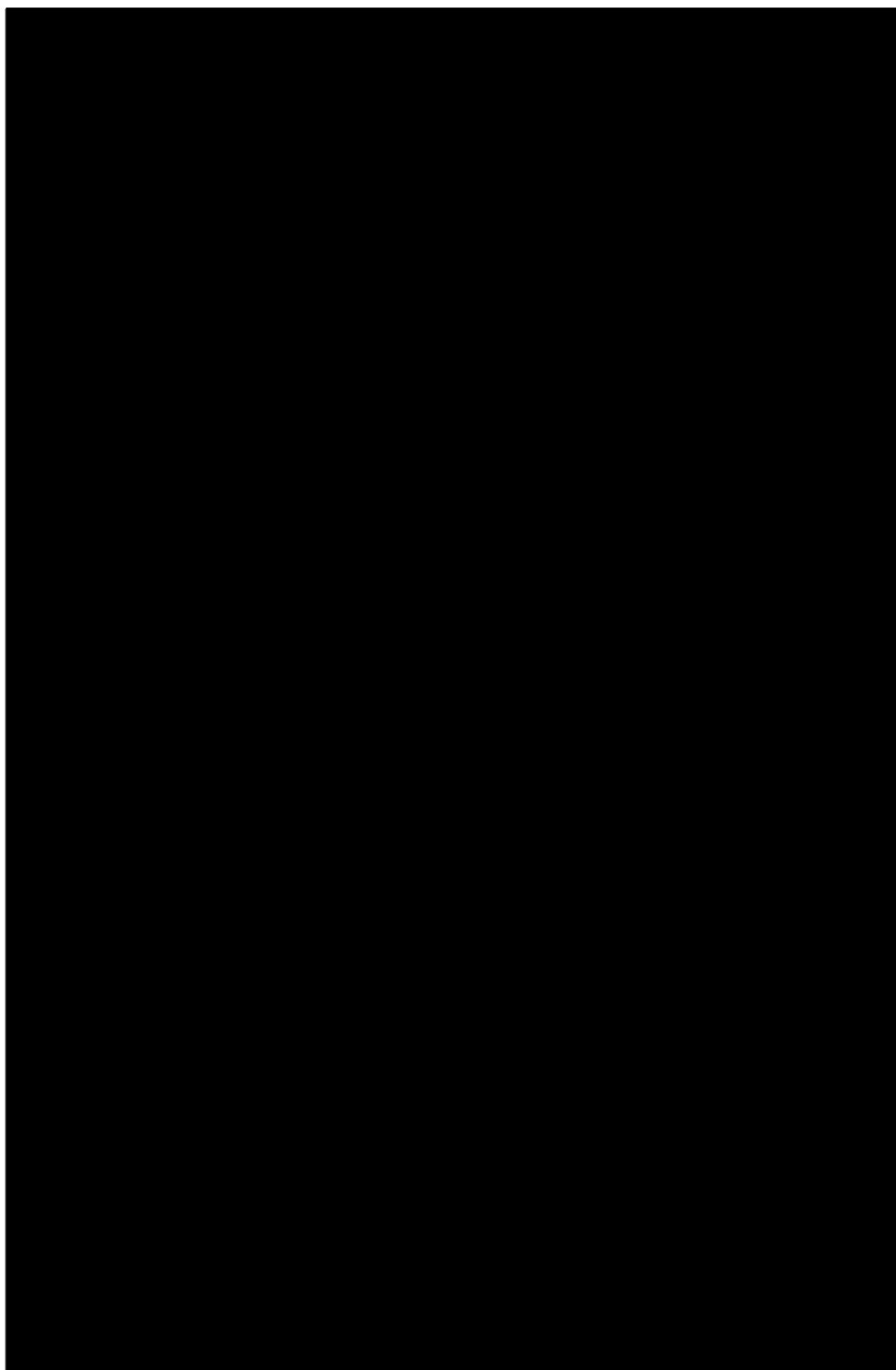
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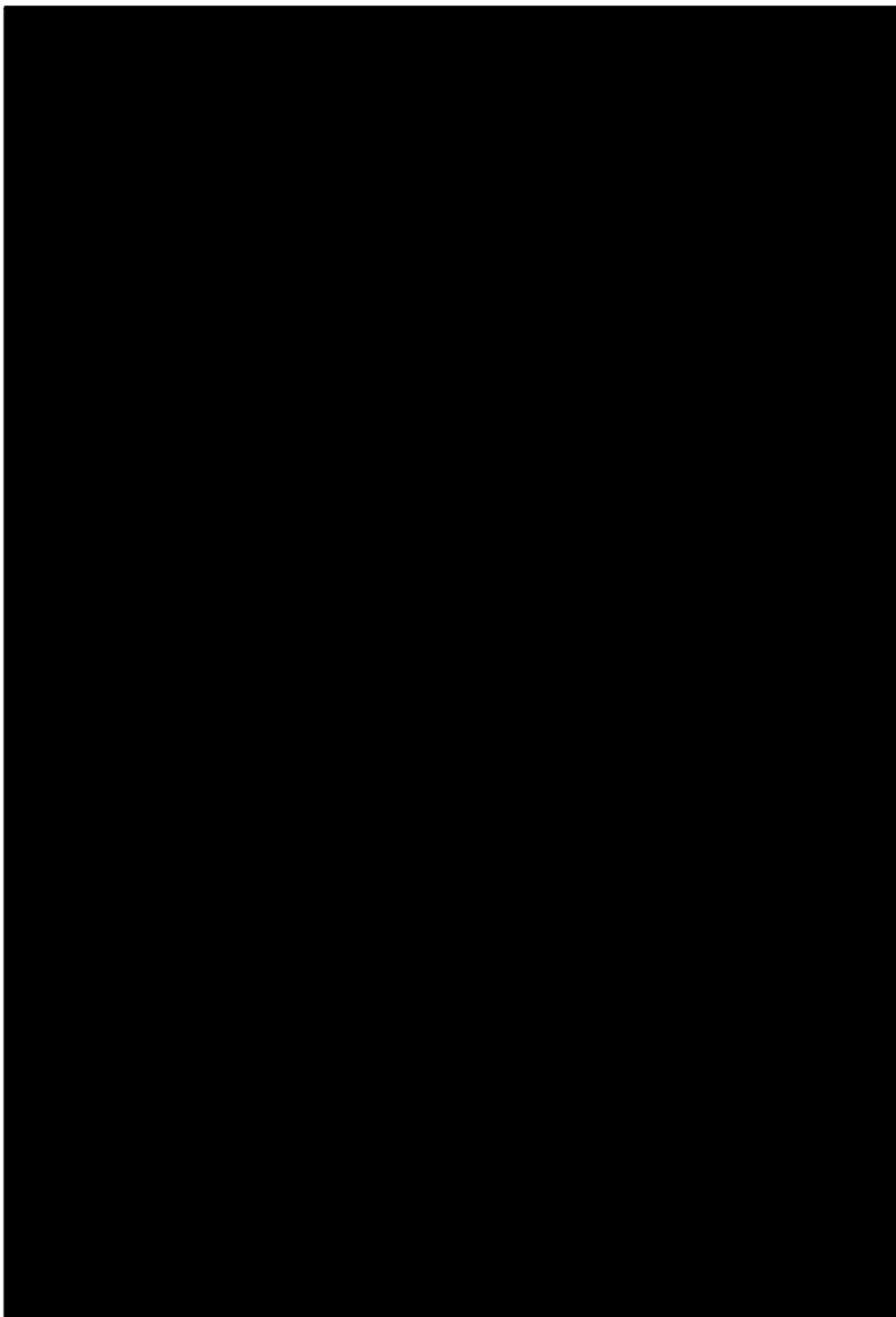
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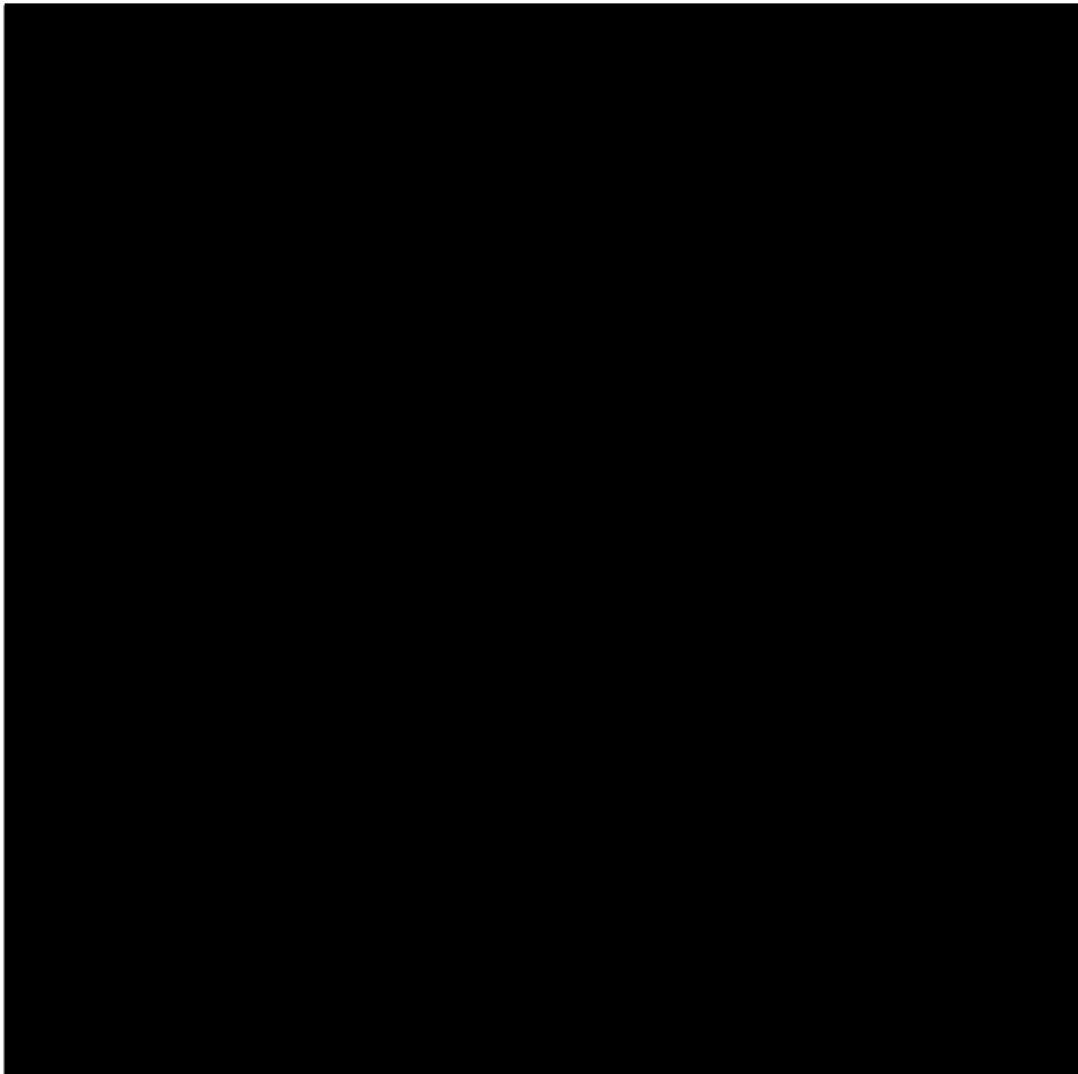
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Q. I will hand you tab O, as in
Oscar, what we'll mark as Exhibit 417.

(Google/[REDACTED] Deposition
Exhibit 417, Docket, USA v. Google,
was marked for identification.)

BY MR. COLLIER:

Q. And I'm not going to ask you
any questions specifically about the
document. I'll represent to you that that is

1 just a docket sheet on a certain case, in
2 case you wanted to refer to it.

3 But my first question is going
4 to be: Are you aware of a 2011 antitrust
5 case, U.S. versus Google, involving when
6 Google bought ITA software?

7 MR. MCCALLUM: Objection,
8 scope.

9 A. No, I'm not aware.

10 BY MR. COLLIER:

11 Q. Okay. So you wouldn't know
12 when or if Google issued a litigation hold
13 for that 2011 case?

14 MR. MCCALLUM: Objection,
15 scope.

16 A. No, I wouldn't.

17 BY MR. COLLIER:

18 Q. I'm going to hand you tab Q,
19 Exhibit 418.

20 (Google/██████████ Deposition
21 Exhibit 418, 12/2/11 Press Release,
22 Statement of DOJ's Antitrust Division
23 on its Decision to Close Its
24 Investigation, was marked for
25 identification.)

1 BY MR. COLLIER:

2 Q. And again, sir, you're free to
3 look at it, but I really just gave you that
4 for your reference to ask -- and I know this
5 is prior to your tenure. I just need to know
6 what you know and what you are aware of.

7 Are you aware that there was a
8 2011 investigation by the DOJ of Google's
9 acquisition of Admeld, A-D-M-E-L-D, Inc.?

10 MR. MCCALLUM: Objection,
11 scope.

12 A. No, I'm not aware.

13 BY MR. COLLIER:

14 Q. So if I was to ask you a series
15 of questions about when Google issued a
16 litigation hold or when it ended, you
17 wouldn't know?

18 MR. MCCALLUM: Objection,
19 scope.

20 A. Correct, I wouldn't know.

21 BY MR. COLLIER:

22 Q. Okay.

23 MR. COLLIER: I'll hand you
24 Exhibit 419, which is tab T, T as in
25 turtle or Tom.

1 (Google/[REDACTED] Deposition
2 Exhibit 419, 8/9/12 Press Release,
3 Google Will Pay \$22.5 Million to
4 Settle FTC Charges, was marked for
5 identification.)

6 BY MR. COLLIER:

7 Q. Are you aware that Google, in
8 or about August of 2012, paid \$22.5 million
9 for FTC charges related to DoubleClick?

10 MR. MCCALLUM: Objection,
11 scope.

12 A. No, I'm not aware.

13 BY MR. COLLIER:

14 Q. So if I was to ask you when the
15 litigation hold would have began or ended or
16 who was covered by it, you wouldn't know?

17 MR. MCCALLUM: Objection,
18 scope.

19 A. That's right.

20 BY MR. COLLIER:

21 Q. And what is DoubleClick, by the
22 way?

23 A. At a very general level, I
24 believe it's an ad marketplace technology.

25 Q. And who owns DoubleClick today?

1 A. I believe Google owns
2 DoubleClick, or acquired DoubleClick.

3 Q. As we sit here today, whether
4 related to Exhibit 419 or otherwise, are you
5 aware of any litigation holds that would have
6 covered, say, chats related to DoubleClick --

7 MR. MCCALLUM: Objection,
8 scope.

9 BY MR. COLLIER:

10 Q. -- or its acquisition?

11 A. I'm not aware of any.

12 Q. Okay. I'll hand you
13 Exhibit 420, tab CC, Charlie-Charlie.

14 (Google, [REDACTED] Deposition
15 Exhibit 420, 1/3/13 Press Release,
16 Google Agrees to Change Its Business
17 Practices to Resolve FTC Competition
18 Concerns, was marked for
19 identification.)

20 BY MR. COLLIER:

21 Q. And I'll represent to you, sir,
22 that this is a January 2013 press release
23 regarding a Google settlement with the FTC
24 related to AdWords.

25 First of all, do you know what

1 AdWords are?

2 A. I don't.

3 Q. Okay. Then I presume you are
4 not aware, because it's prior to your time,
5 about the Google settlement with the FTC
6 related to AdWords?

7 MR. MCCALLUM: Objection,
8 scope.

9 A. Correct, I'm not aware.

10 BY MR. COLLIER:

11 Q. Okay. And then therefore, you
12 wouldn't know if, related to this 2013
13 settlement with AdWords, if there was a
14 litigation hold, who would be covered by it,
15 when it would have began or when it would
16 have ended?

17 MR. MCCALLUM: Objection,
18 scope.

19 A. Correct, I wouldn't be aware.

20 BY MR. COLLIER:

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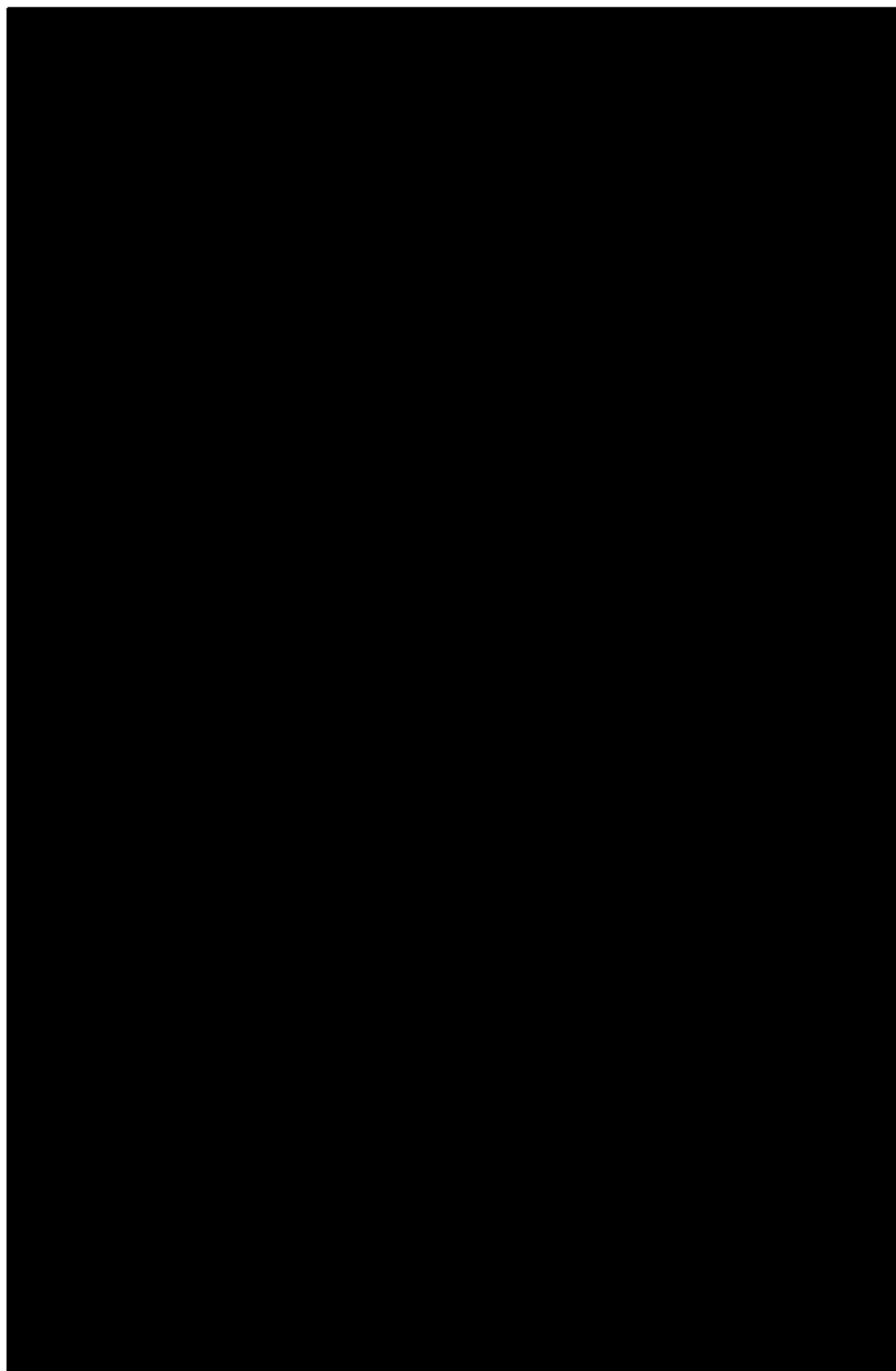
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16 Q. Okay. Couple more of these,
17 and then we'll take a short break.

18 A. Sure.

19 MR. COLLIER: Actually, this is
20 a good breaking point, if you don't
21 mind. Do you want to take five or ten
22 minutes?

23 THE WITNESS: Sure.

24 THE VIDEOGRAPHER: We're going
25 off the record. The time is 9:54.

1 (Recess taken, 9:54 a.m. to
2 10:03 a.m. PDT)

3 THE VIDEOGRAPHER: We are going
4 back on the record. The time is
5 10:03.

6 BY MR. COLLIER:

7 Q. [REDACTED] were you able to get
8 some water and take a break?

9 A. Yes, I was. Thanks.

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12 Q. Do you happen to know when the
13 DoubleClick acquisition was?

14 A. No, I don't.

15 Q. If I told you it was
16 approximately 2007, would that -- does that
17 sound right, or you just have no way of
18 knowing?

19 A. I have no way of knowing.

20 Q. Okay. I'm going to hand you
21 what we're marking Exhibit 421, which is tab
22 J, as in Juliet.

23 (Google/██████████ Deposition

24 Exhibit 421, E-mail(s) re: Press

25 Reports: FTC Investigation & Google

1 Display, GOOG-DOJ-18360214 -

2 GOOG-DOJ-18360221, was marked for
3 identification.)

4 BY MR. COLLIER:

5 Q. And I'll ask you if this is a
6 document you've ever seen.

7 A. No, I've never seen this.

8 Q. Do you see on the face of the
9 document that this is an e-mail from Neal
10 Mohan, on May 24th, 2013, at 8:29 p.m.?

11 A. Yes, that's what it says.

12 Q. To Susan Wojcicki.

13 I'm sure I'm pronouncing that
14 horribly, but W-O-J-C-I-C-K-I?

15 A. Yes, that's what it says.

16 Q. And who is Mr. Mohan?

17 A. Well, today, Mr. Mohan is the
18 CEO of YouTube.

19 Q. And who is Susan Wojcicki?

20 A. Susan was the previous CEO of
21 YouTube.

22 Q. So these are high-level people
23 corresponding, right?

24 A. I don't know what Neal's role
25 was at that point.

1 Q. If I tell you he was senior
2 vice president of display and video ads at
3 Google at that point, would you have any
4 reason to disagree with that?

5 A. I wouldn't know what his role
6 was.

7 Q. If I told you Susan Wojcicki's
8 role was senior VP of advertising and
9 commerce, would you have any reason to
10 disagree?

11 A. No, I wouldn't know the
12 specifics.

13 Q. Okay. So are you generally
14 aware that the FTC began a 2013 investigation
15 into Google's Ad Tech?

16 MR. MCCALLUM: Objection,
17 beyond the scope of this deposition.

18 A. I don't have any knowledge of
19 that.

20 BY MR. COLLIER:

21 Q. So -- and I apologize. I know
22 these questions are repetitive, but would it
23 be fair to say, then, that you don't have any
24 knowledge of whether or not Google initiated
25 a litigation hold for this FTC investigation,

1 who it would have covered and when it would
2 have ended?

3 MR. MCCALLUM: Objection,
4 scope.

5 A. Correct, I wouldn't have any
6 knowledge of that.

7 BY MR. COLLIER:

8 Q. But are you generally aware of
9 what litigation holds are in effect today?

10 A. Not the specifics of the
11 individual holds.

12 Q. All right. So I'm going to
13 show you what we're going to mark as
14 Exhibit 422, tab III.

15 (Google/████████████████████ Deposition
16 Exhibit 422, Excerpt of Google
17 Privilege Log, was marked for
18 identification.)

19 BY MR. COLLIER:

20 Q. And I apologize for the small
21 print. This is how it was produced to us.

22 And I will represent to you
23 that this is a portion of Google's privilege
24 log in this case.

25 Have you ever seen Google's

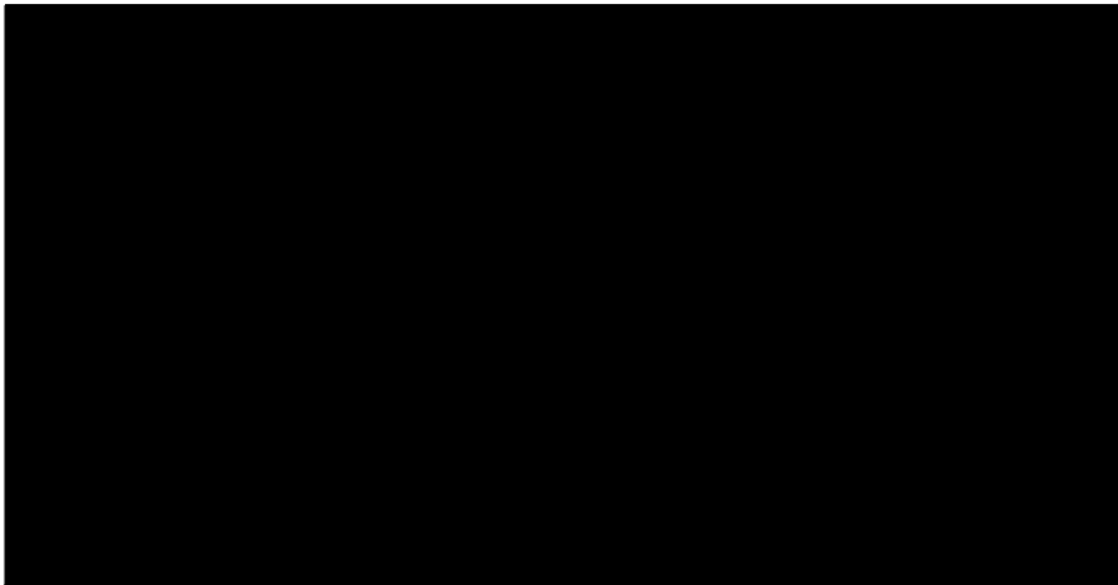
1 privilege log, by the way?

2 MR. MCCALLUM: Objection,
3 scope.

4 A. No, I have not.

5 BY MR. COLLIER:

6 Q. Okay. And I believe I saw you
7 looking at the e-mail that was 421 as well as
8 422, so you may have anticipated my
9 questions.



19 BY MR. COLLIER:

20 Q. Okay. Let me try something a
21 little --

22 But you are a lawyer as we
23 discussed, right?

24 A. That's right.

25 Q. And what is your understanding

1 MR. COLLIER: I'm not going to
2 make him swear to this. This is our
3 work product, not his, but I am
4 entitled to ask him if he knows.

5 BY MR. COLLIER:

6 Q. So, sir, just so I can ask you
7 if you know, do you know, from -- and I will
8 also represent to you on this chart, where it
9 says 1900 and N/A, those are documents that
10 for whatever reason are not dated.

11 MR. COLLIER: Log entries are
12 not dated? Okay.

13 BY MR. COLLIER:

14 Q. With that said, do you know,
15 other than this chart or with this chart or
16 in any way, how many documents Google has
17 withheld from production due to an
18 anticipation of litigation narrative in their
19 privilege log?

20 MR. MCCALLUM: Objection, scope
21 and form.

22 A. I do not know.

23 BY MR. COLLIER:

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21 BY MR. COLLIER:

22 Q. Okay. When did Google have an
23 anticipation of litigation regarding the
24 State of Texas's claims in this matter?

25 A. I don't know.

1 Q. Okay. So if I'm -- and I don't
2 want to ask you questions you don't know; I'm
3 just asking if you know. If we were to go
4 through these thousands of documents, or at
5 least the privilege log entries, these
6 thousands of documents withheld under
7 anticipation of litigation, is it your
8 testimony you couldn't tell me anything that
9 you couldn't learn from reading from the
10 privilege log itself?

11 A. I just legitimately don't have
12 any knowledge of the specifics here, so...

13 Q. Well, that's what I mean. I'm
14 just trying to save time.

15 A. Mm-hmm.

16 Q. There are thousands of
17 documents, and I will represent this to you.
18 There are thousands and thousands of
19 documents on Google's privilege log that
20 reference in anticipation of litigation. And
21 I can walk you through this privilege log if
22 you'd like. But if your answer is: I don't
23 have any knowledge of any of the documents on
24 that log and wouldn't be able to tell you
25 anything other than it's a privilege log,

1 that's fair, and I won't ask you.

2 Or we can do it.

3 A. That's what I'm saying. I
4 don't have any knowledge of any specific
5 documents on that log.

6 Q. And you don't have any
7 knowledge of when Google, the entity, decided
8 there was an anticipation of litigation in
9 this case, the State of Texas matter?

10 A. Correct, I don't have any
11 knowledge.

12 Q. You understand as a lawyer,
13 companies place on privilege logs documents
14 that are relevant but are not going to be
15 disclosed due to an assertion of privilege,
16 right?

17 A. As a general matter, yes, I
18 agree.

19 Q. Okay. When did Google first
20 learn that the State of Texas, and the other
21 states in this case led by the State of
22 Texas, was investigating its Ad Tech
23 practices?

24 MR. MCCALLUM: Objection,
25 scope.

1 A. I don't know.

2 BY MR. COLLIER:

3 Q. Okay. I'm going to hand you
4 what I've marked as -- it's tab B, as in boy.
5 Exhibit 424.

6 (Google/[REDACTED] Deposition
7 Exhibit 424, E-mail(s) re: CID to
8 Alphabet Inc., GOOG-NE-11319529, was
9 marked for identification.)

10 BY MR. COLLIER:

11 Q. The front page is some
12 metadata. You know what metadata is, right?

13 A. Yes.

14 Q. Just so we can say it, what is
15 metadata?

16 A. It's data that gives you
17 additional details about a particular digital
18 artifact.

19 Q. So, for example, if this
20 metadata came from Google, we can rely on the
21 From and the To categories as being who this
22 e-mail was sent from and who it was sent to,
23 right?

24 A. As a general matter, yes,
25 that's right.

1 Q. If you can turn to the e-mail
2 itself.

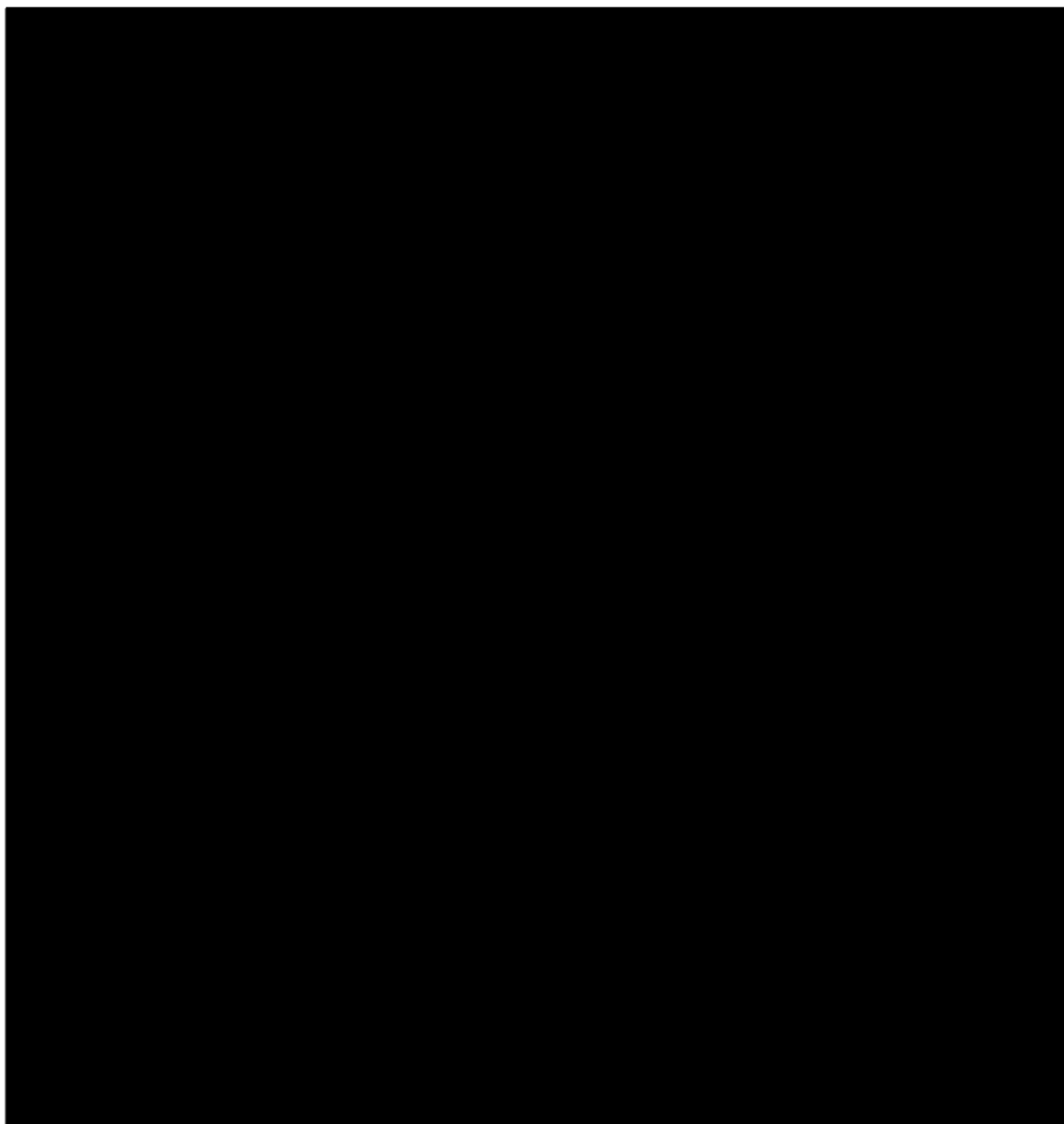
3 [Document review.]

4 BY MR. COLLIER:

5 Q. Have you had a chance to review
6 this page?

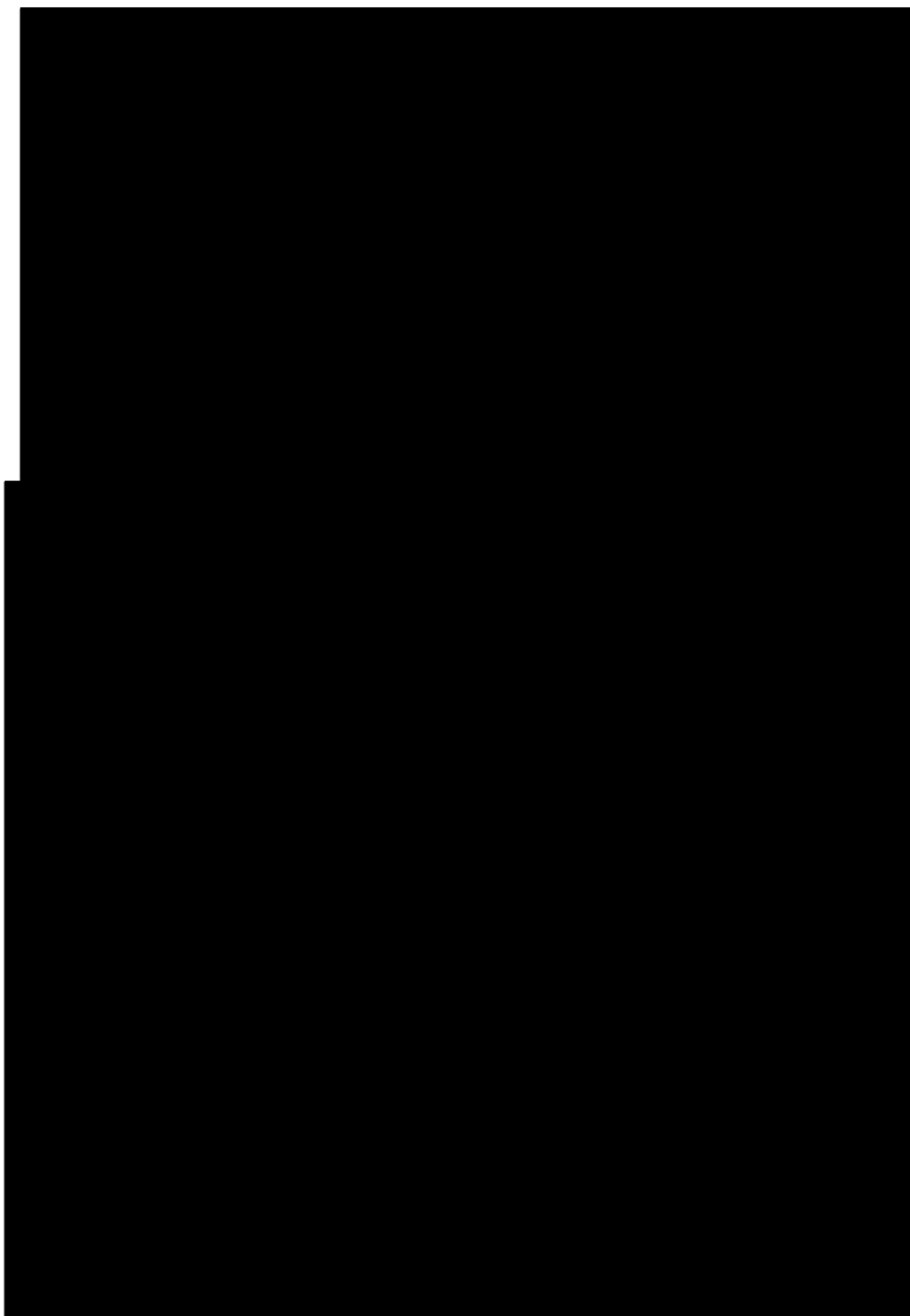
7 A. Yes.

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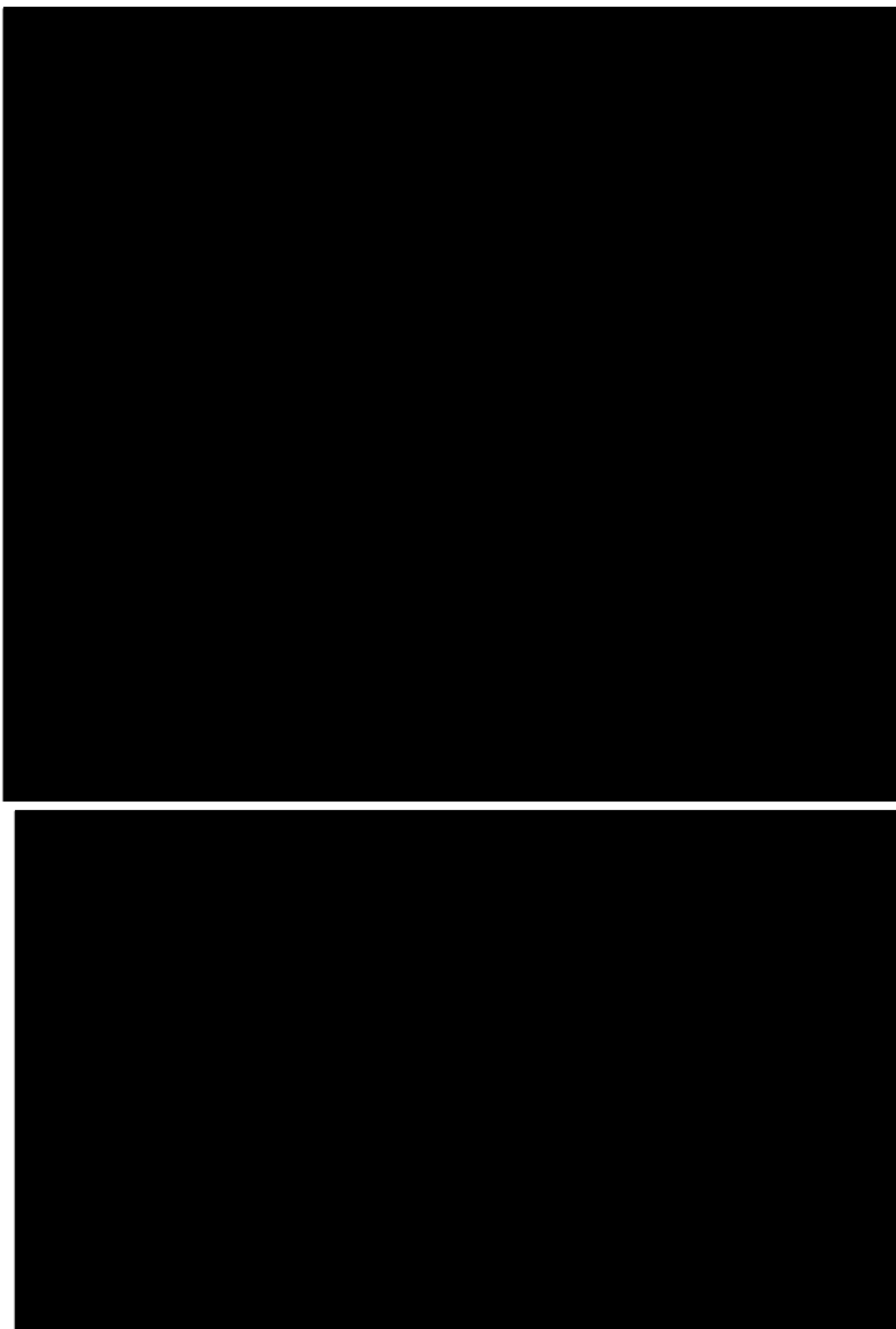


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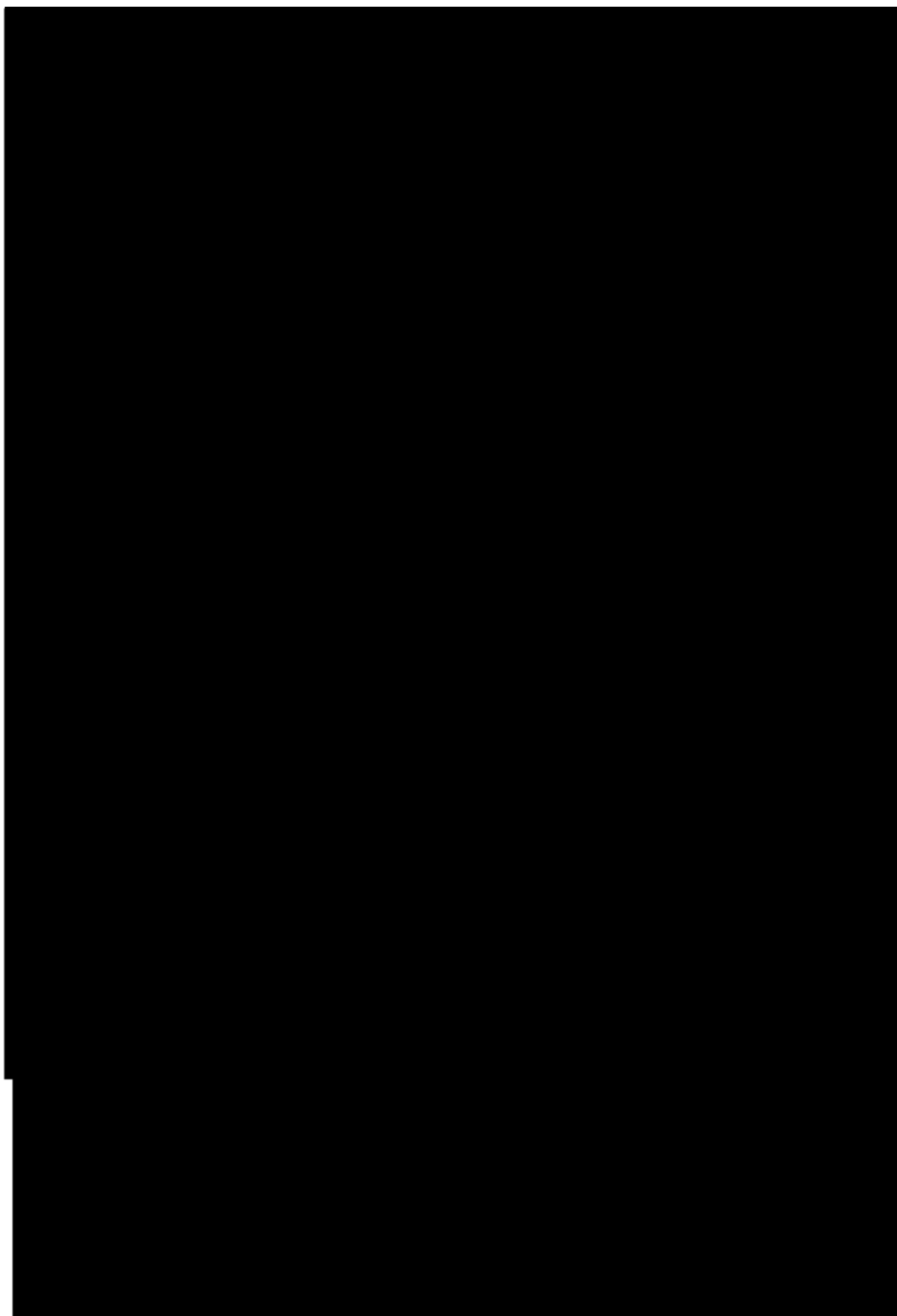
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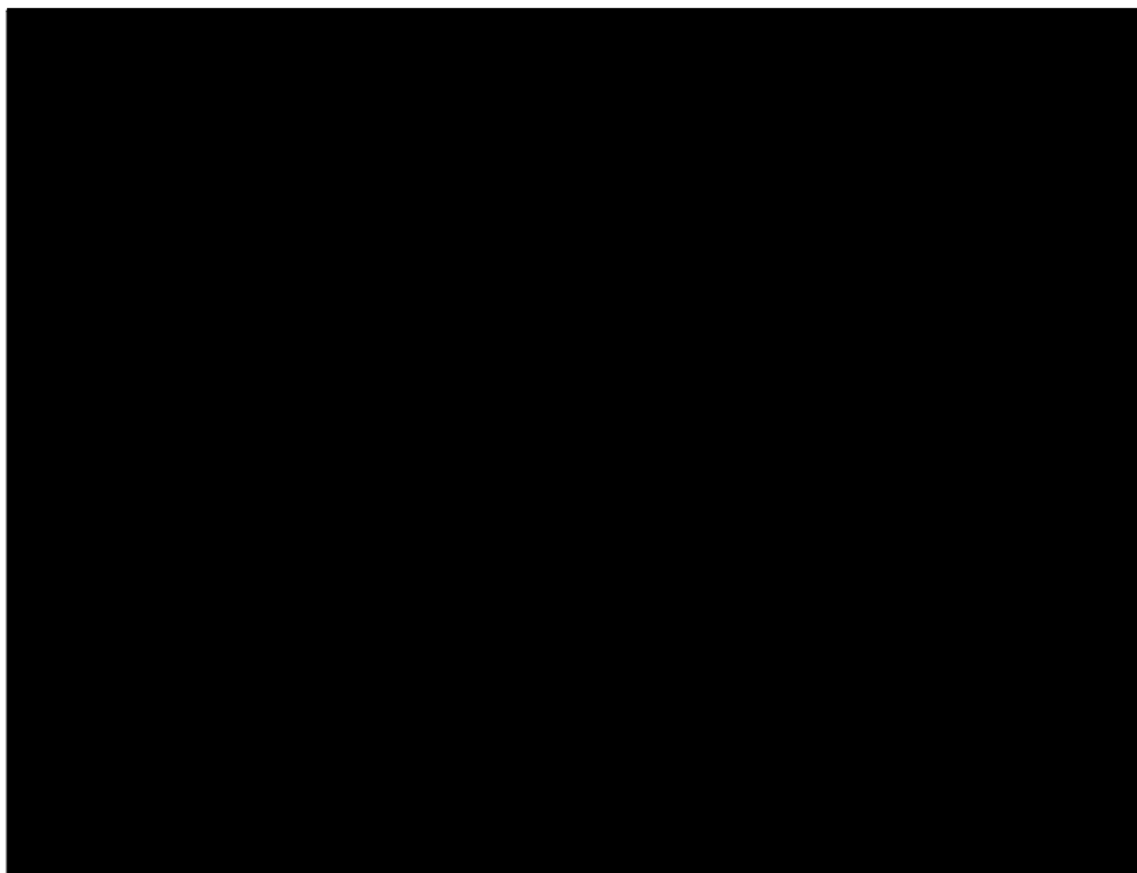
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Q. Okay. All right. I'm going to hand you what we've marked as tab D, which will be Exhibit 425.

(Google/ [REDACTED] Deposition Exhibit 425, State of Texas Civil Investigative Demand, GOOG-UT-00000034 - GOOG-UT-00000072, was marked for identification.)

[Document review.]

BY MR. COLLIER:

Q. Have you had a chance to look at it?

1 A. Just the first couple of pages.

2 Q. And I'm going to presume -- I
3 shouldn't presume anything.

4 Have you ever reviewed this
5 Civil Investigative Demand?

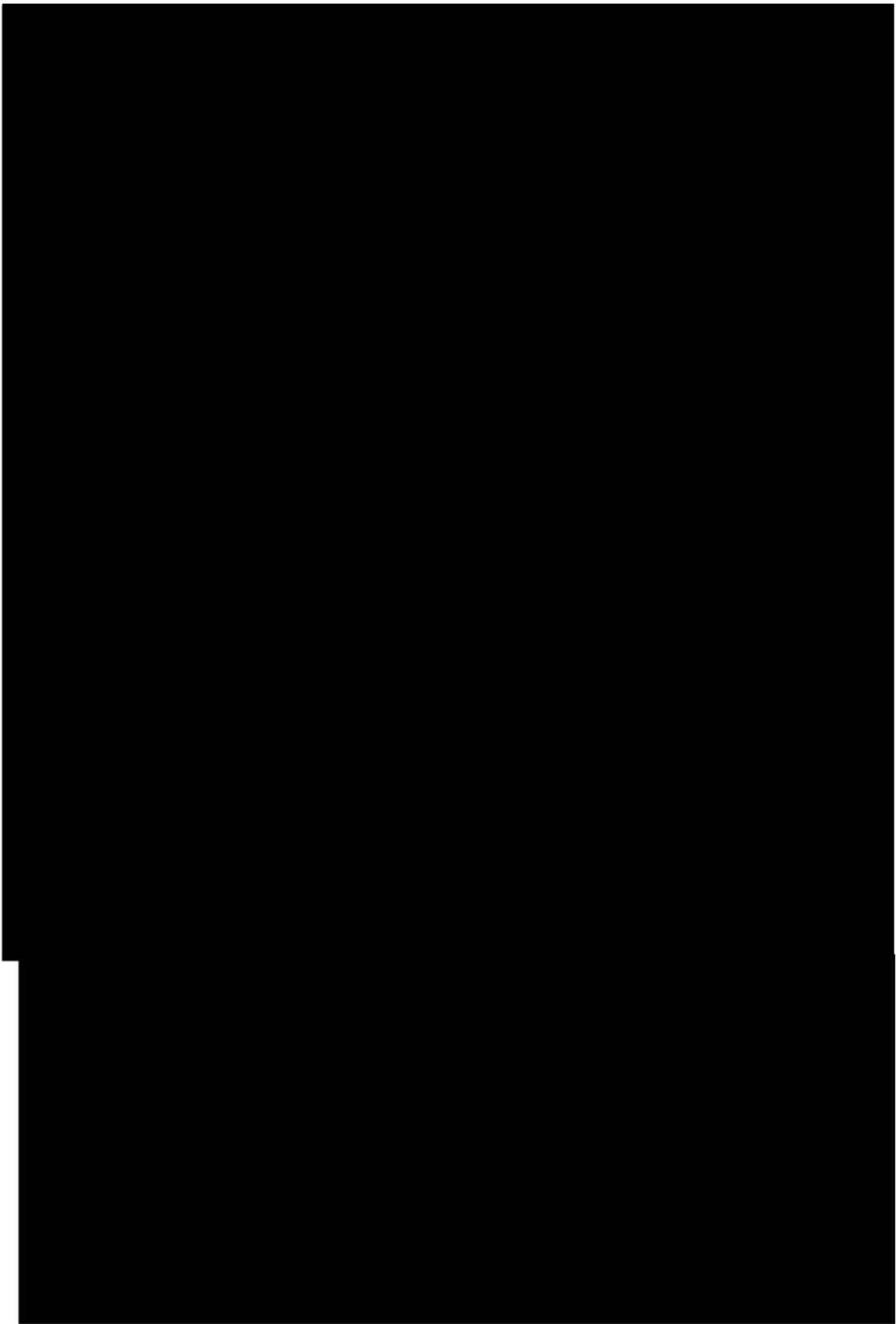
6 A. No.

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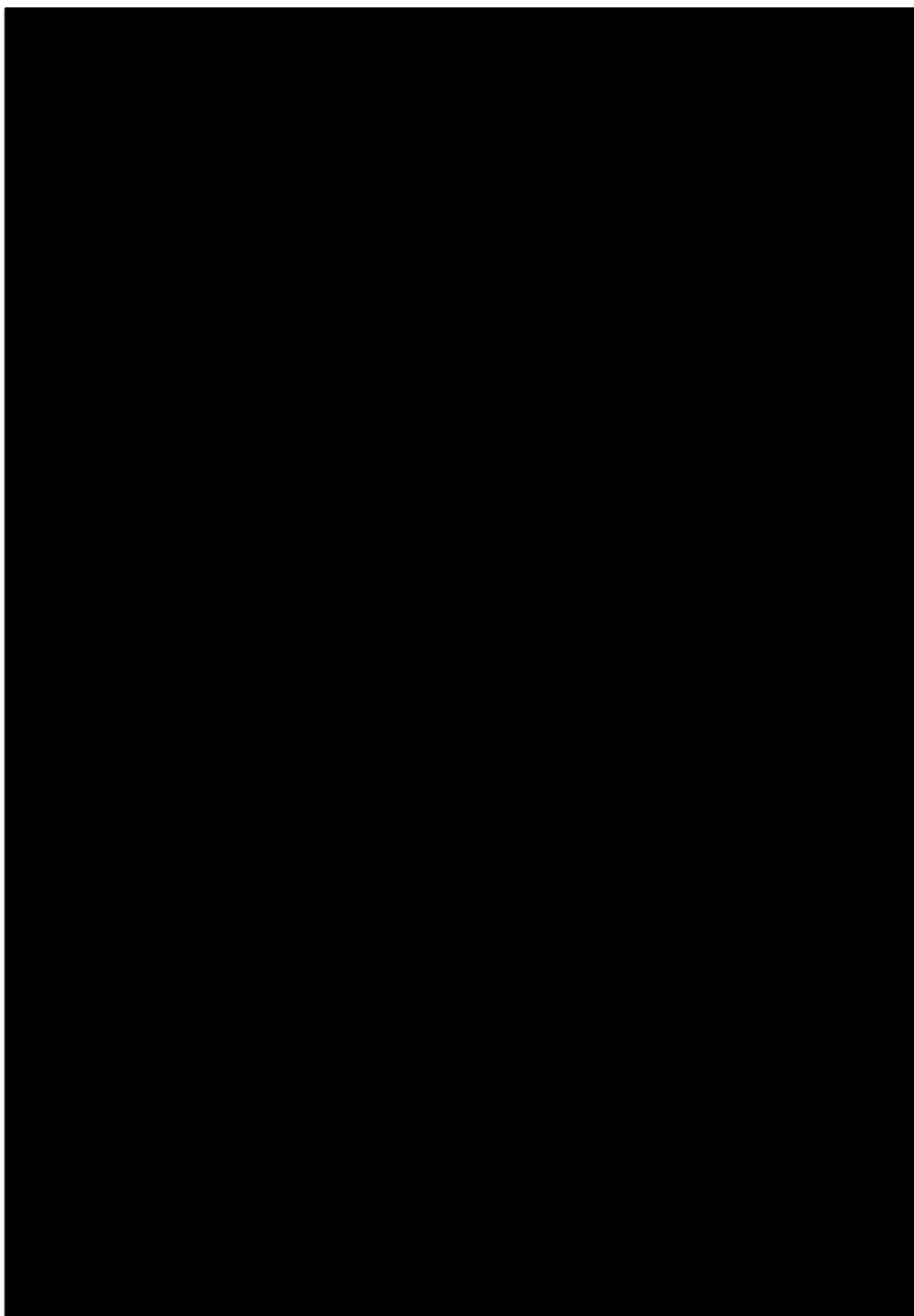


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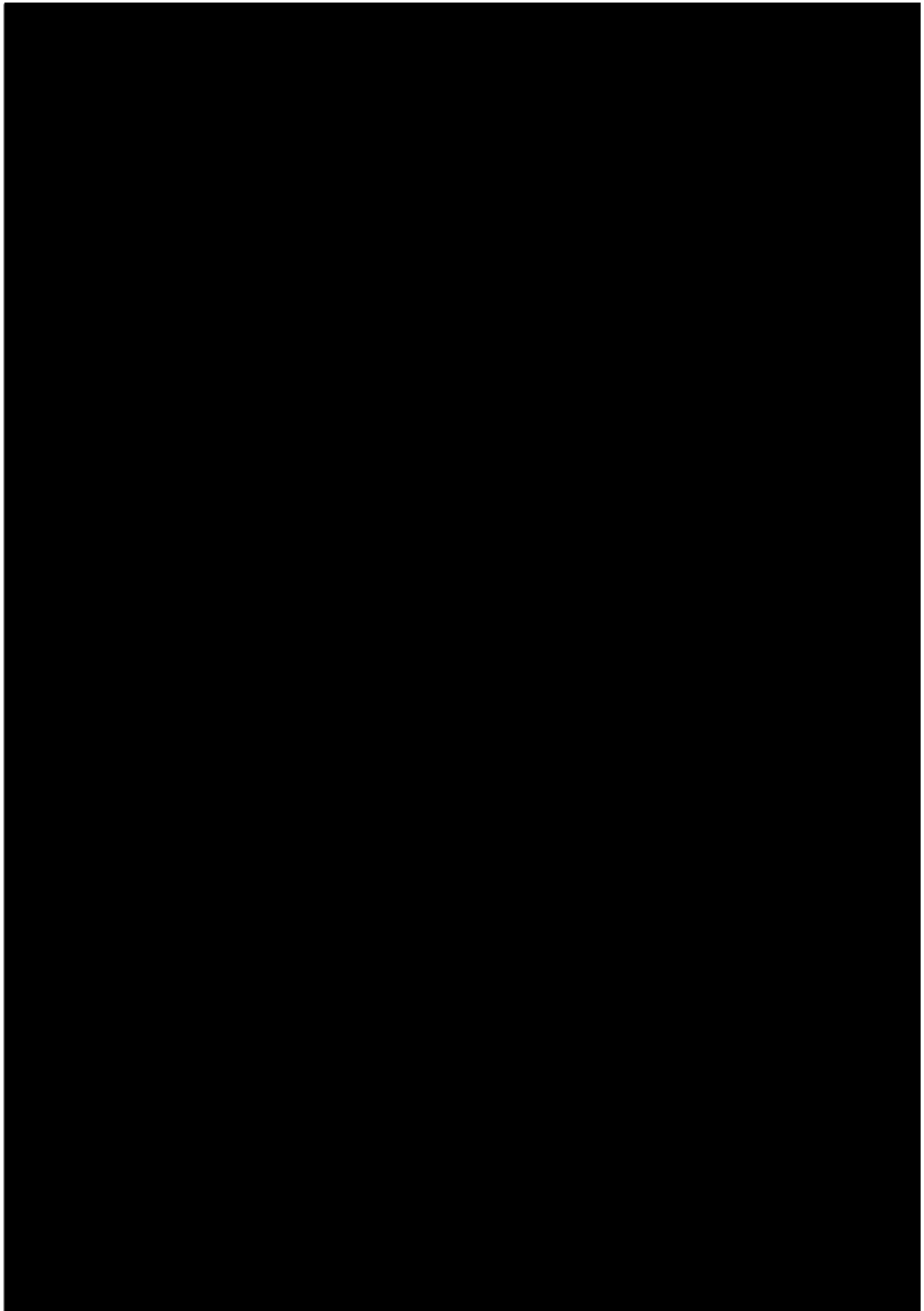
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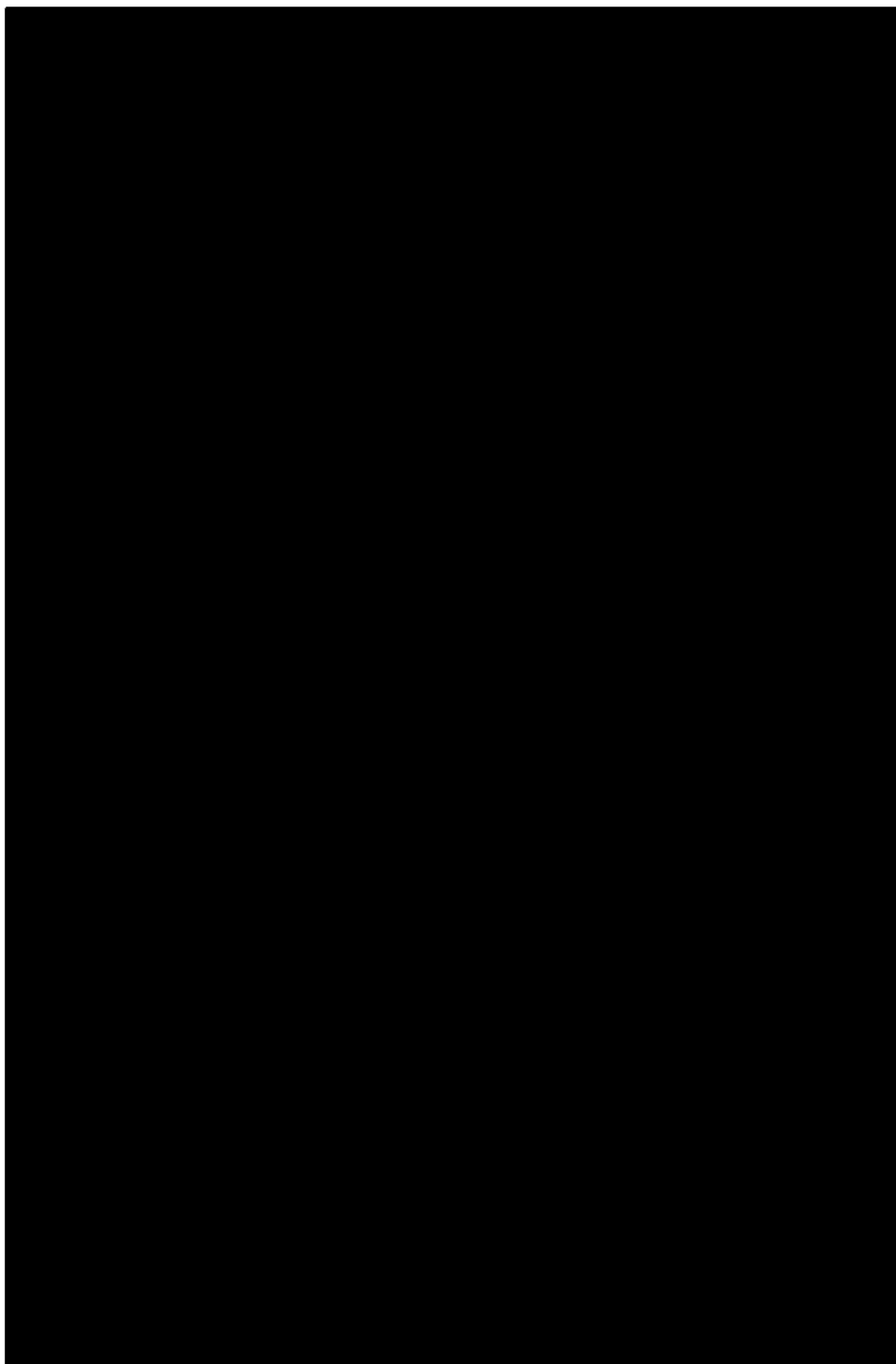
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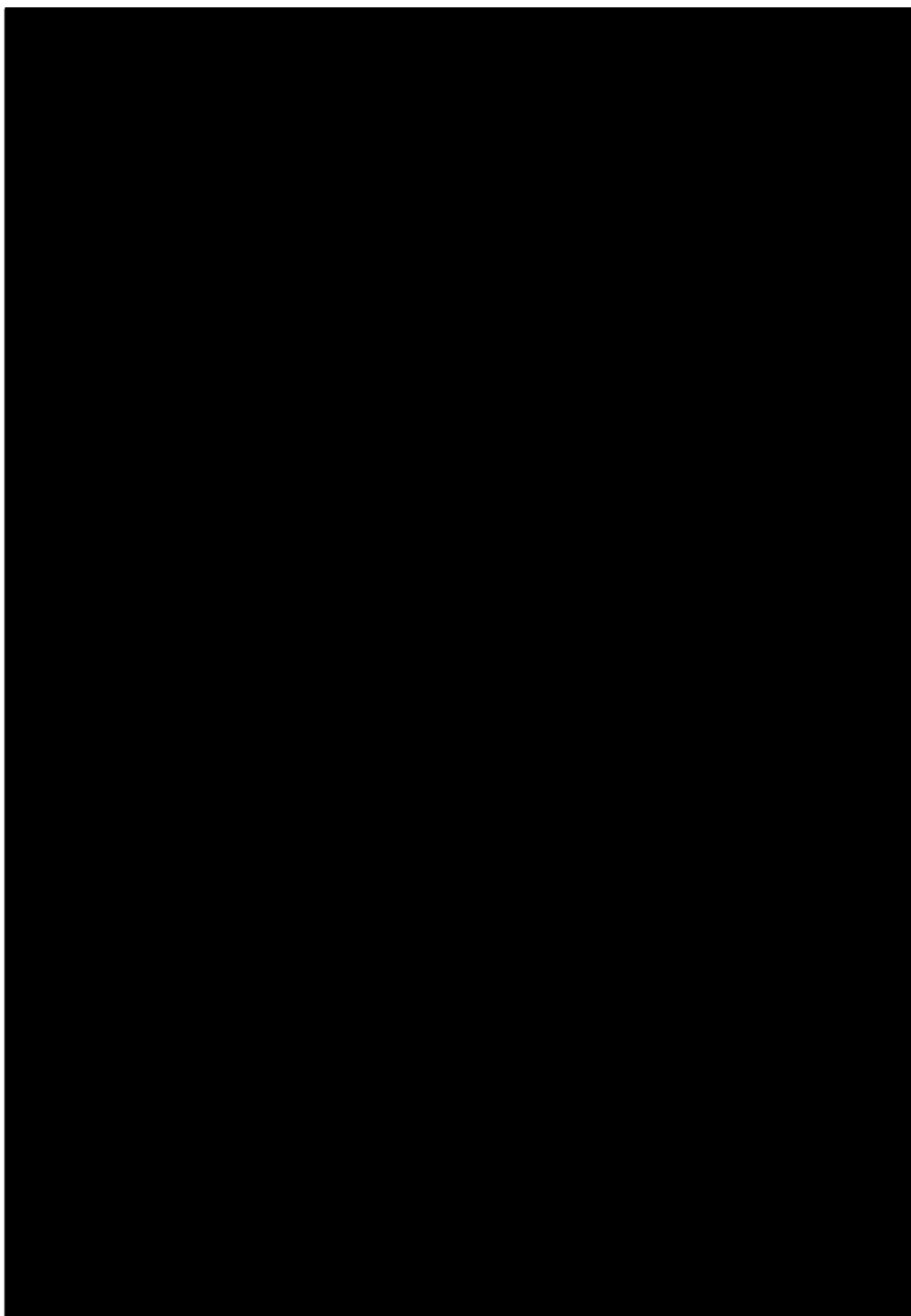
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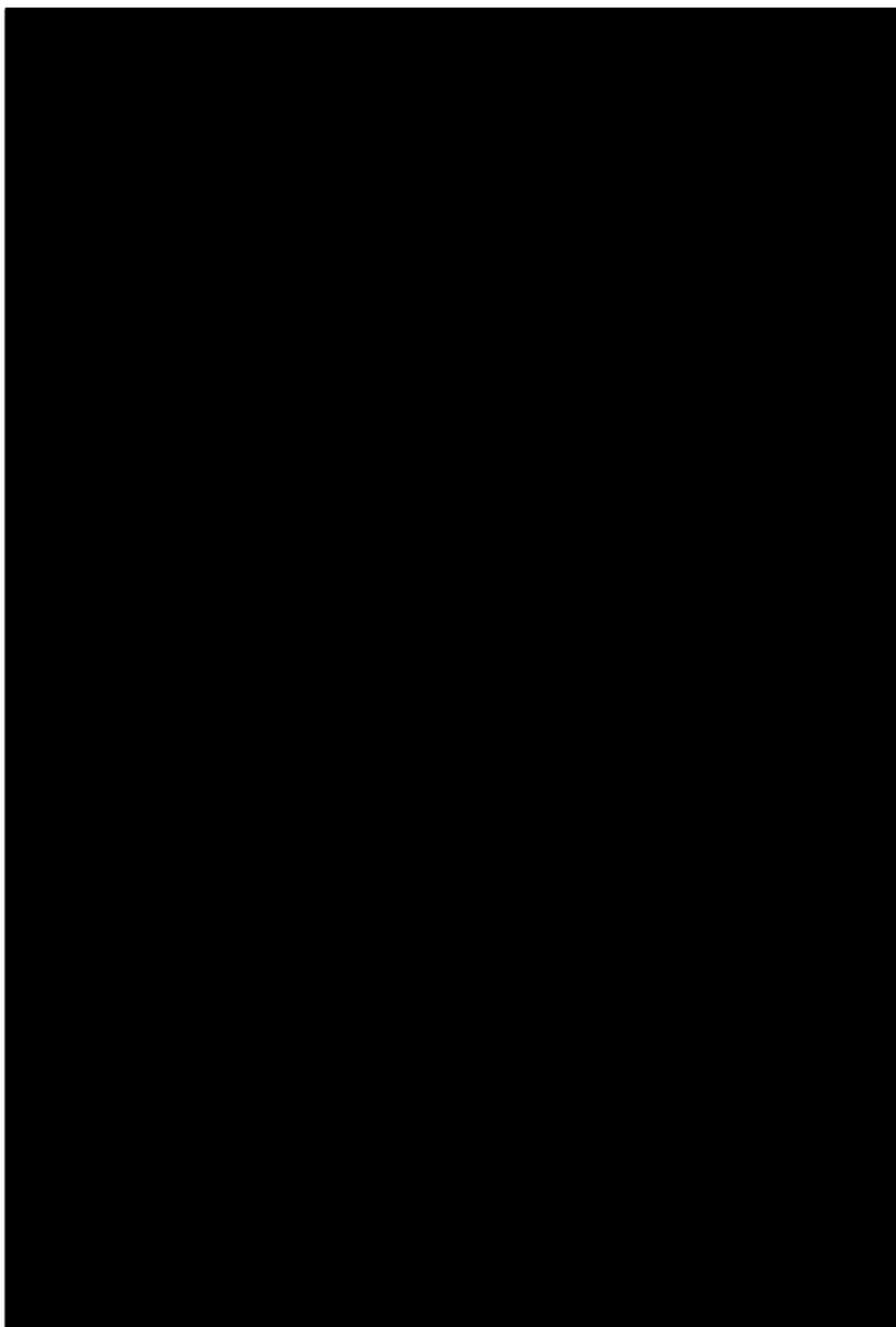
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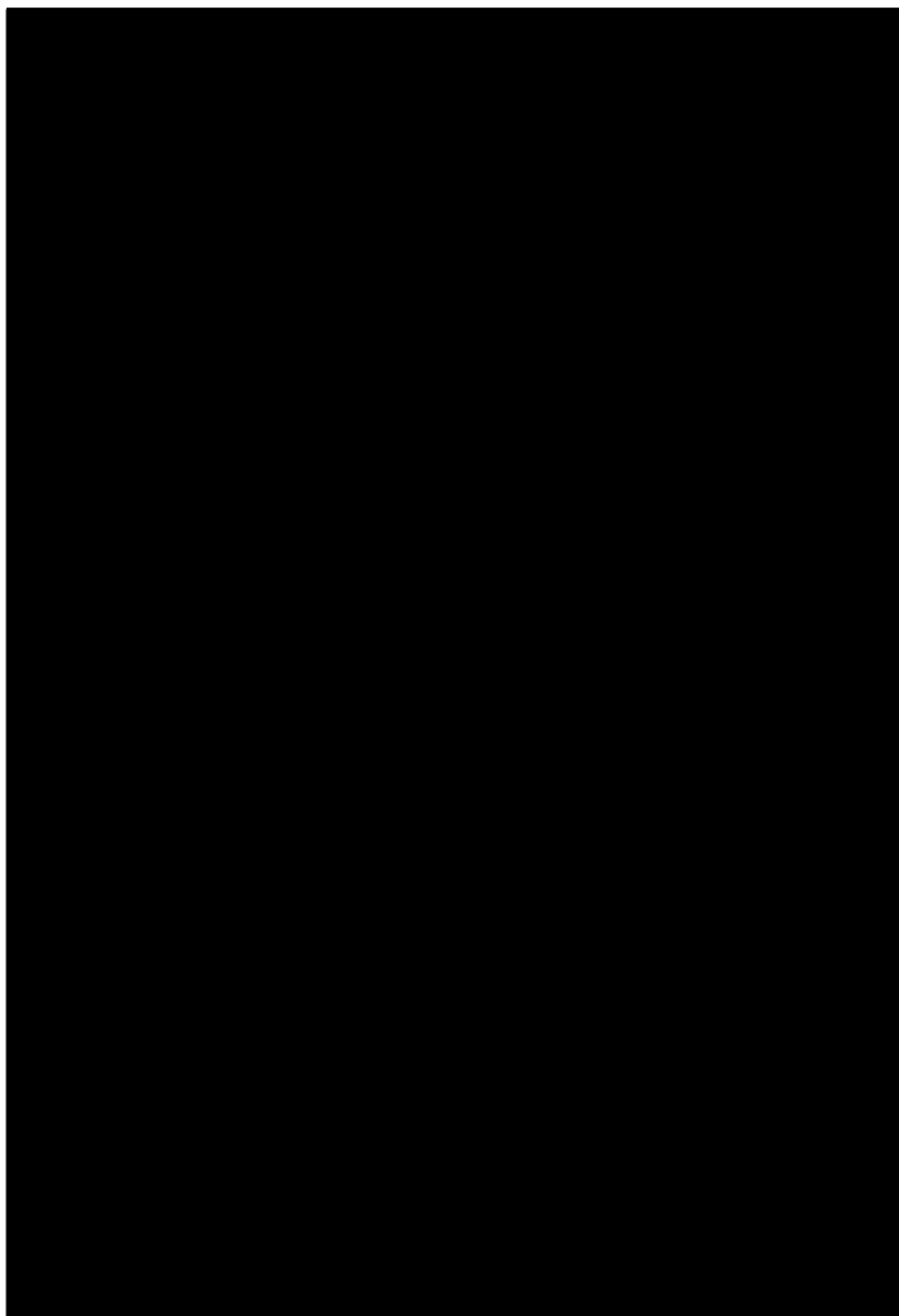
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1 BY MR. COLLIER:

2 Q. So what is the default -- or
3 "default" is probably not the right word.

4 When you say you use Chat, is
5 it -- just today, when you go back to your
6 office, or I guess you're remote. When you
7 go back to chatting, what is the name of the
8 program you are using? Is it Google Chat?

9 A. It's Google Chat today.

10 Q. And you don't use any
11 third-party applications to chat, do you?

12 A. No, I don't.

13 Q. You wouldn't use Apple
14 Messenger or anything?

15 A. No, not at work.

16 Q. Yes.

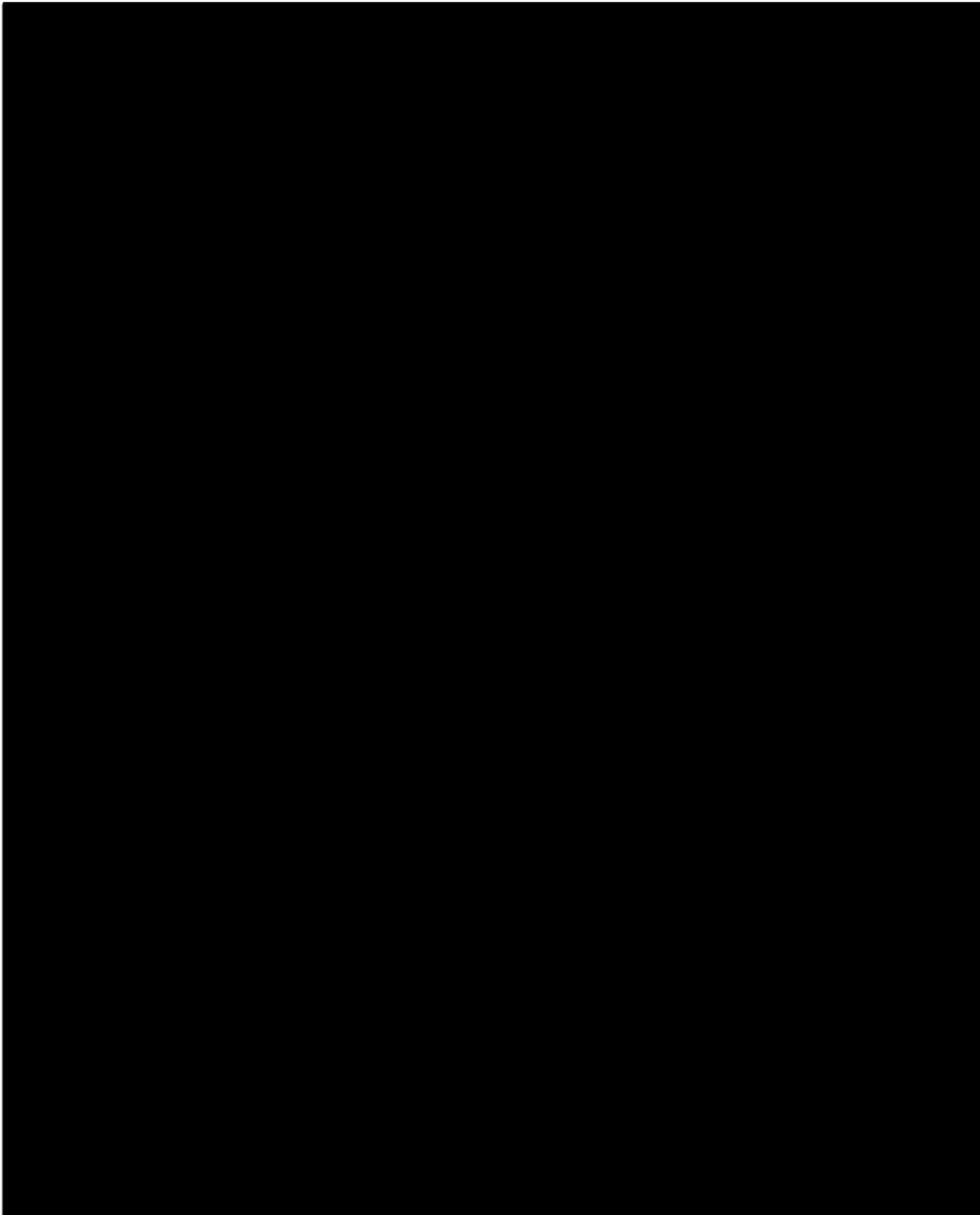
17 A. Yeah.

1 MR. MCCALLUM: Objection to
2 scope.

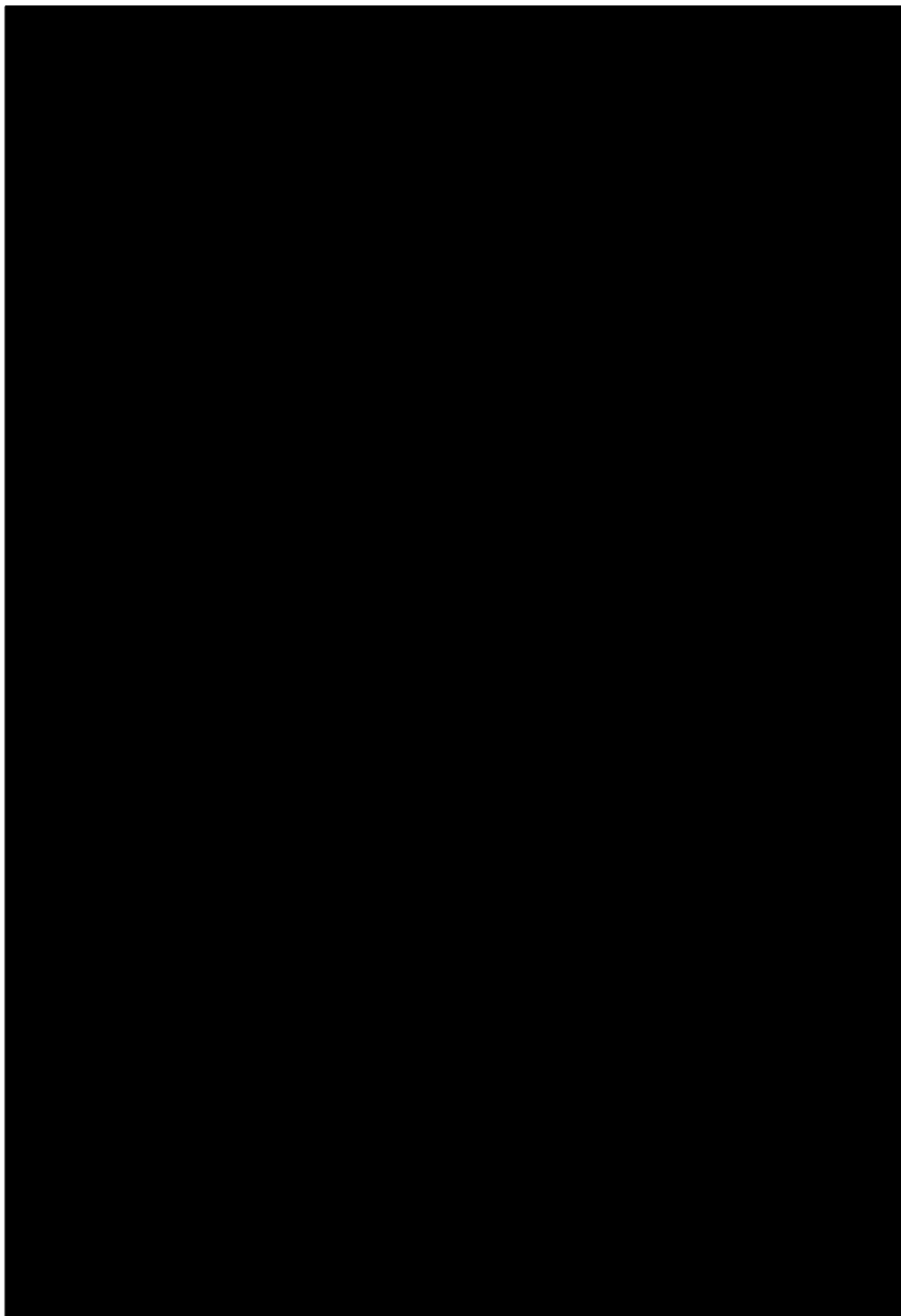
3 A. -- I'm not aware.

4 BY MR. COLLIER:

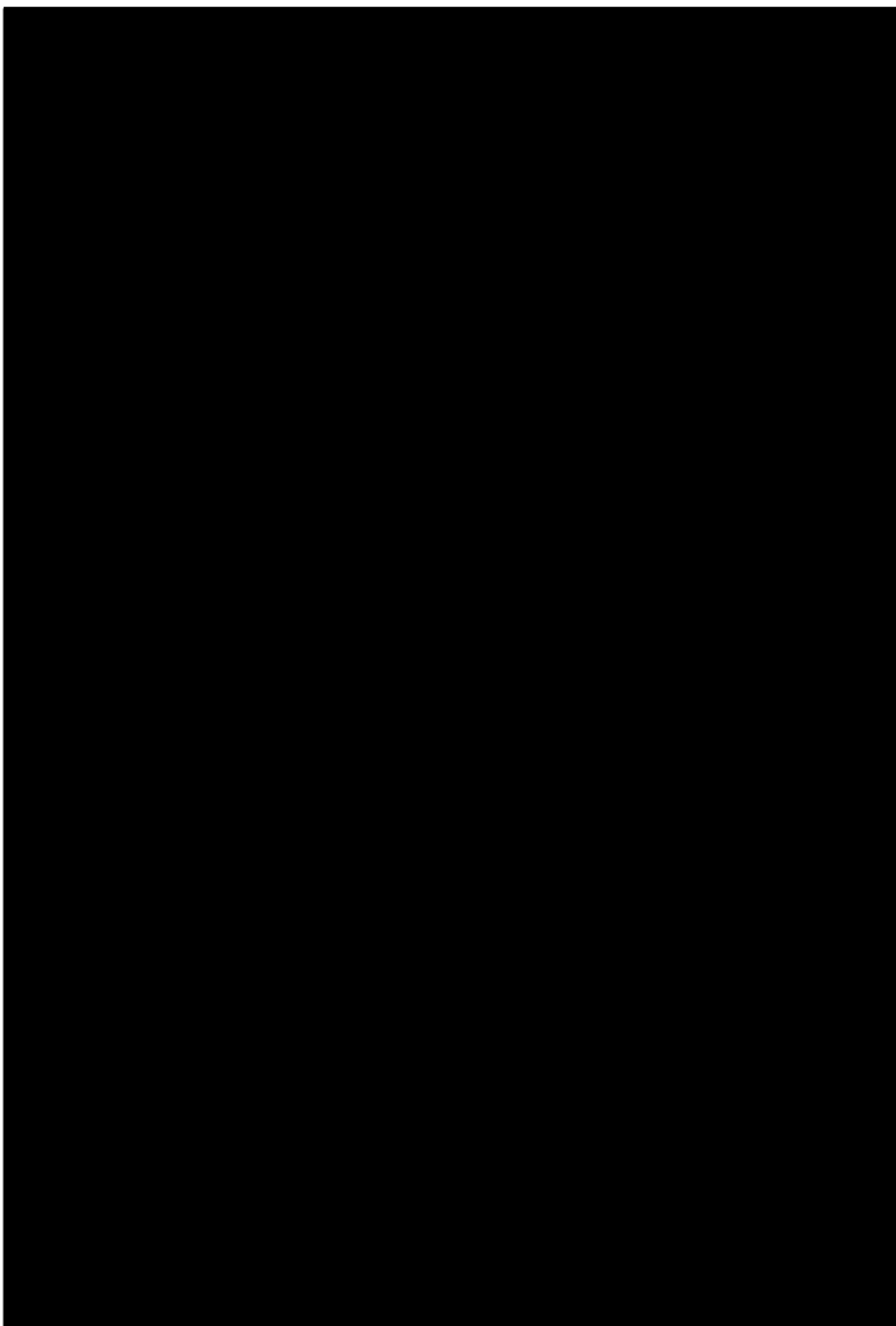
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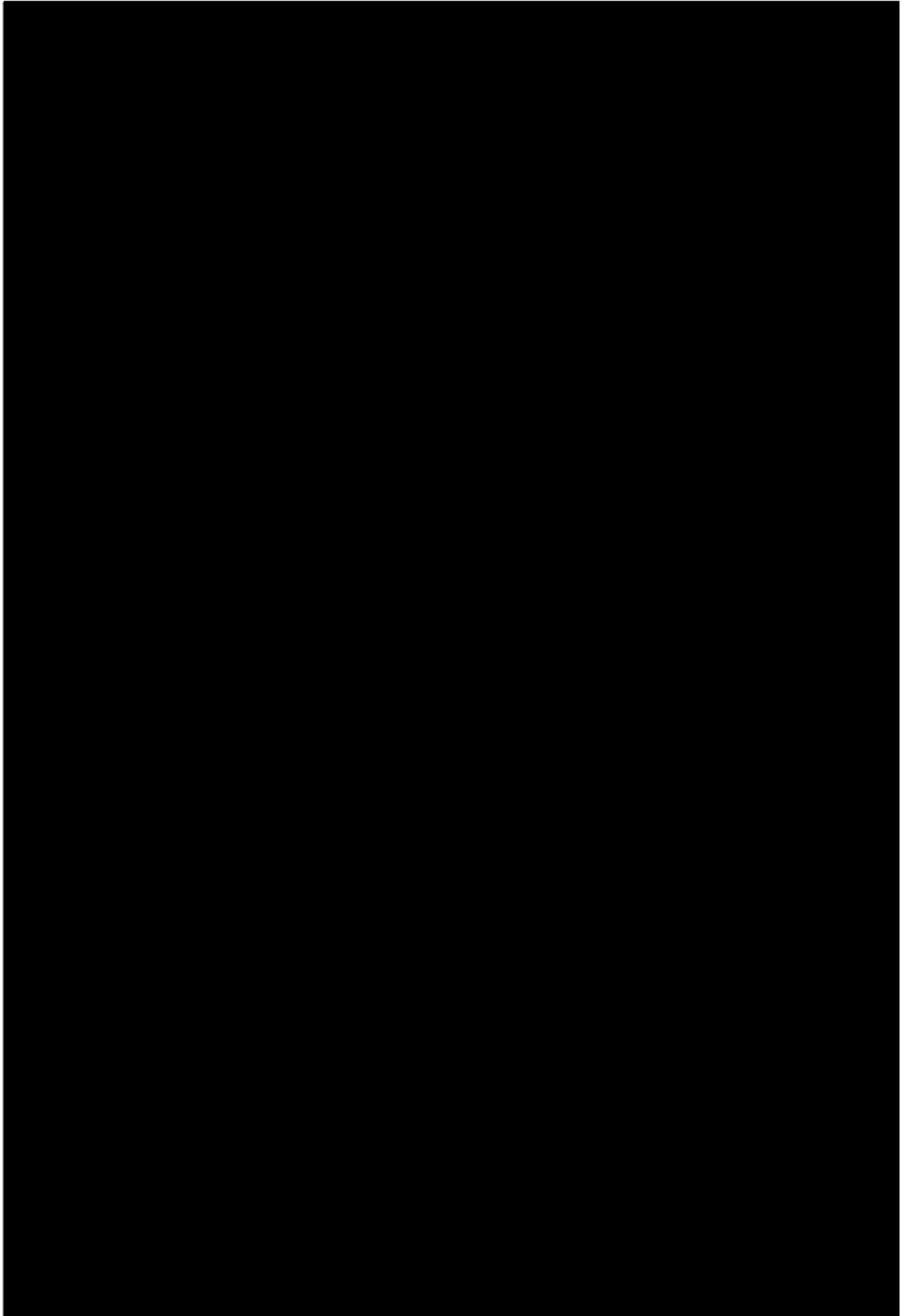


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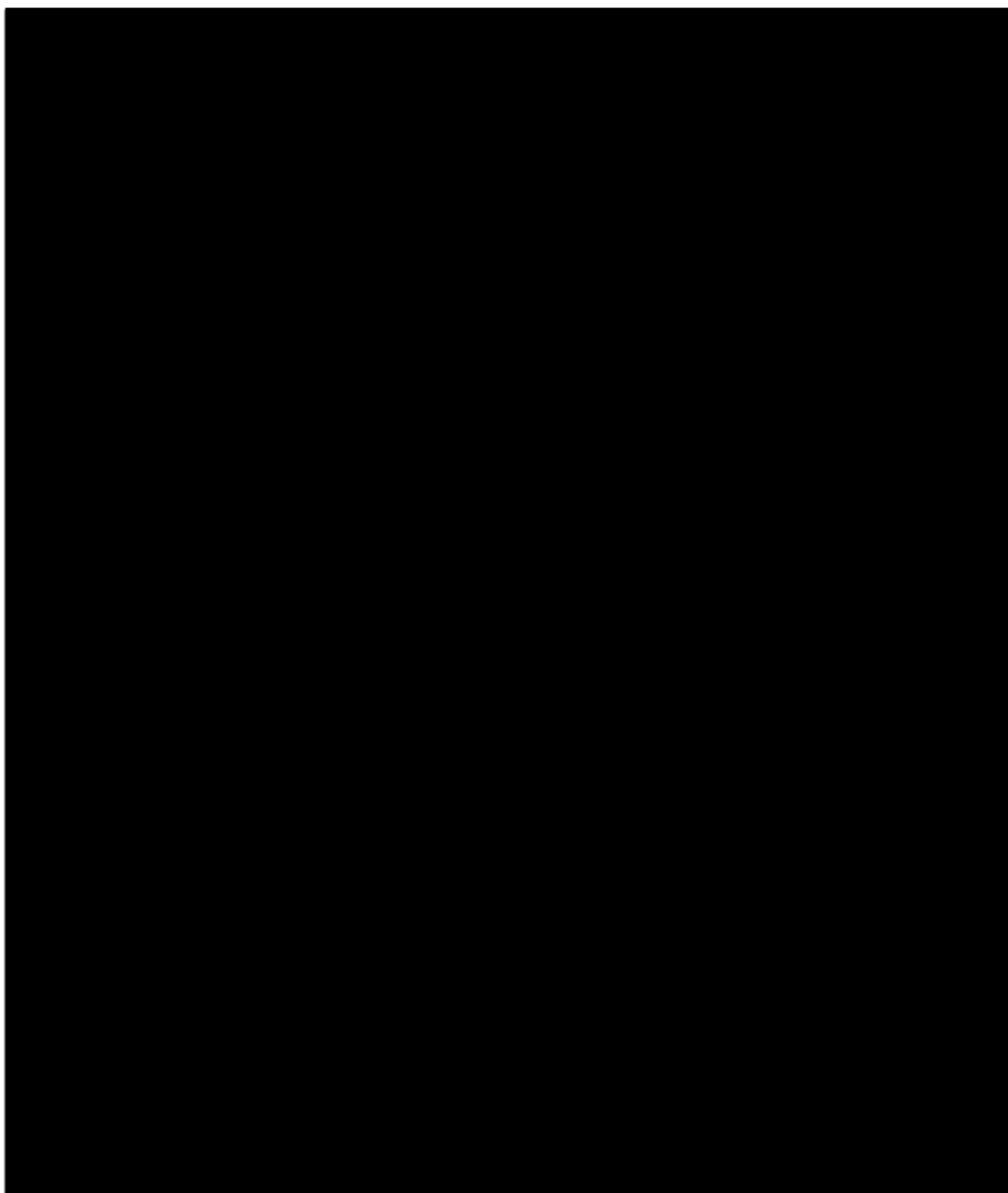


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Q. Okay. I'm going to switch to another topic. Do you want to take a five- or ten-minute break?

A. I'm fine. We can keep going.

Q. All right. I'm handing you

1 what is tab K and will be Exhibit 426.

2 (Google/[REDACTED] deposition

3 Exhibit 426, E-mail(s) re: [Googlers]

4 [REDACTED]
5 [REDACTED]

6 GOOG-DOJ-019569563 -

7 GOOG-DOJ-019569564, was marked for
8 identification.)

9 BY MR. COLLIER:

10 Q. Just ask you to review this
11 document.

12 [Document review.]

13 A. Okay.

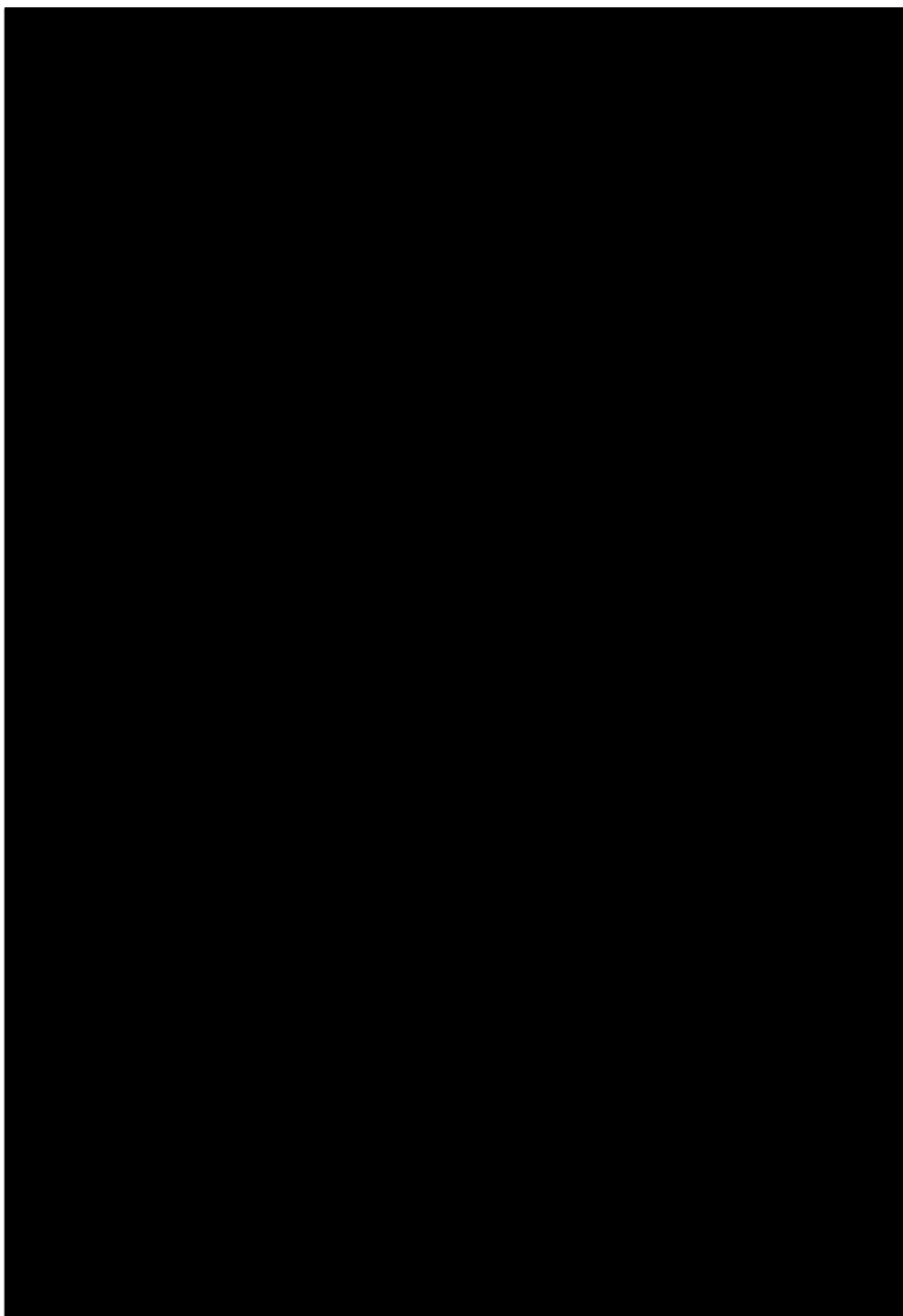
14 BY MR. COLLIER:

15 Q. You good?

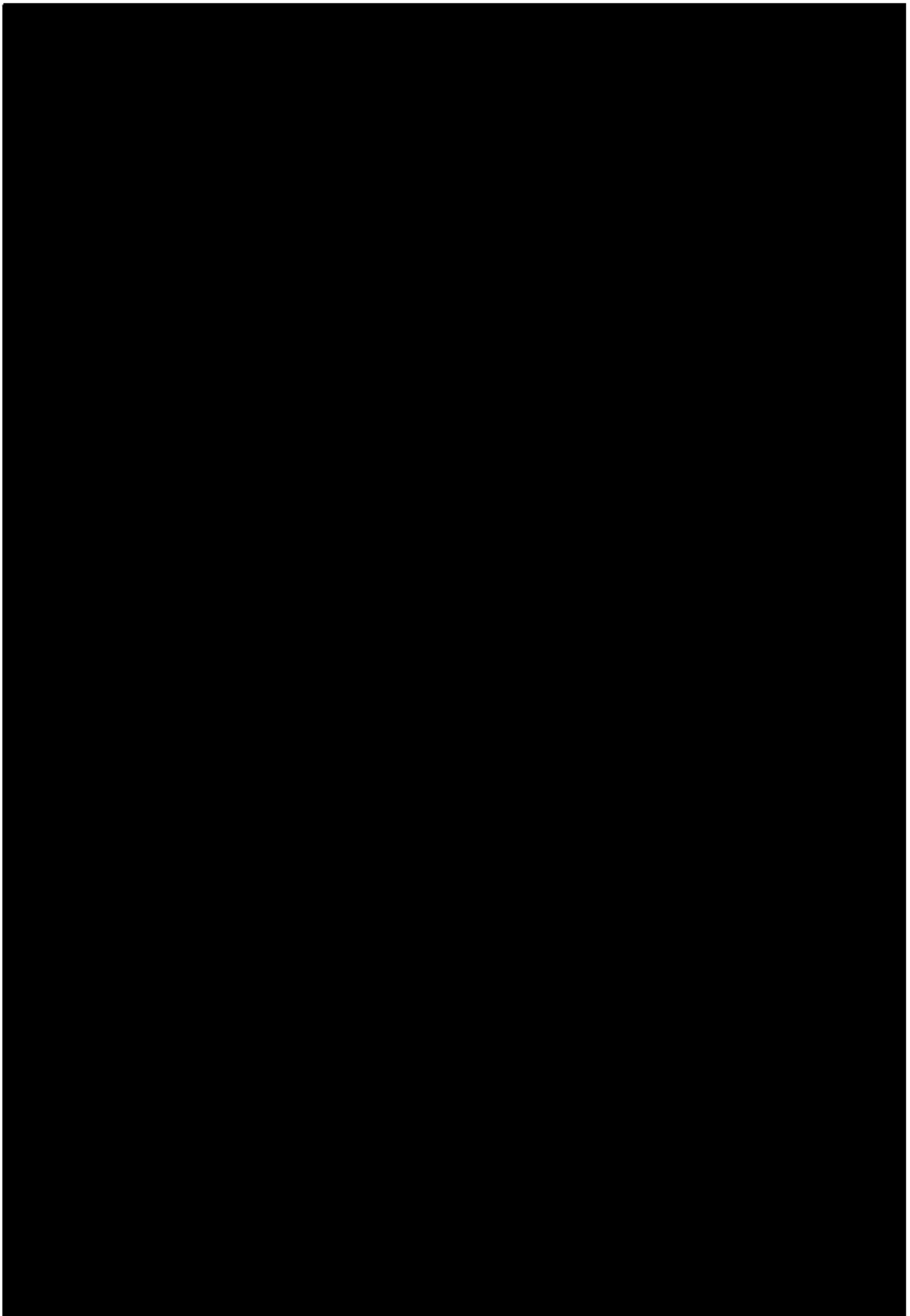
16 A. Yeah.

17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

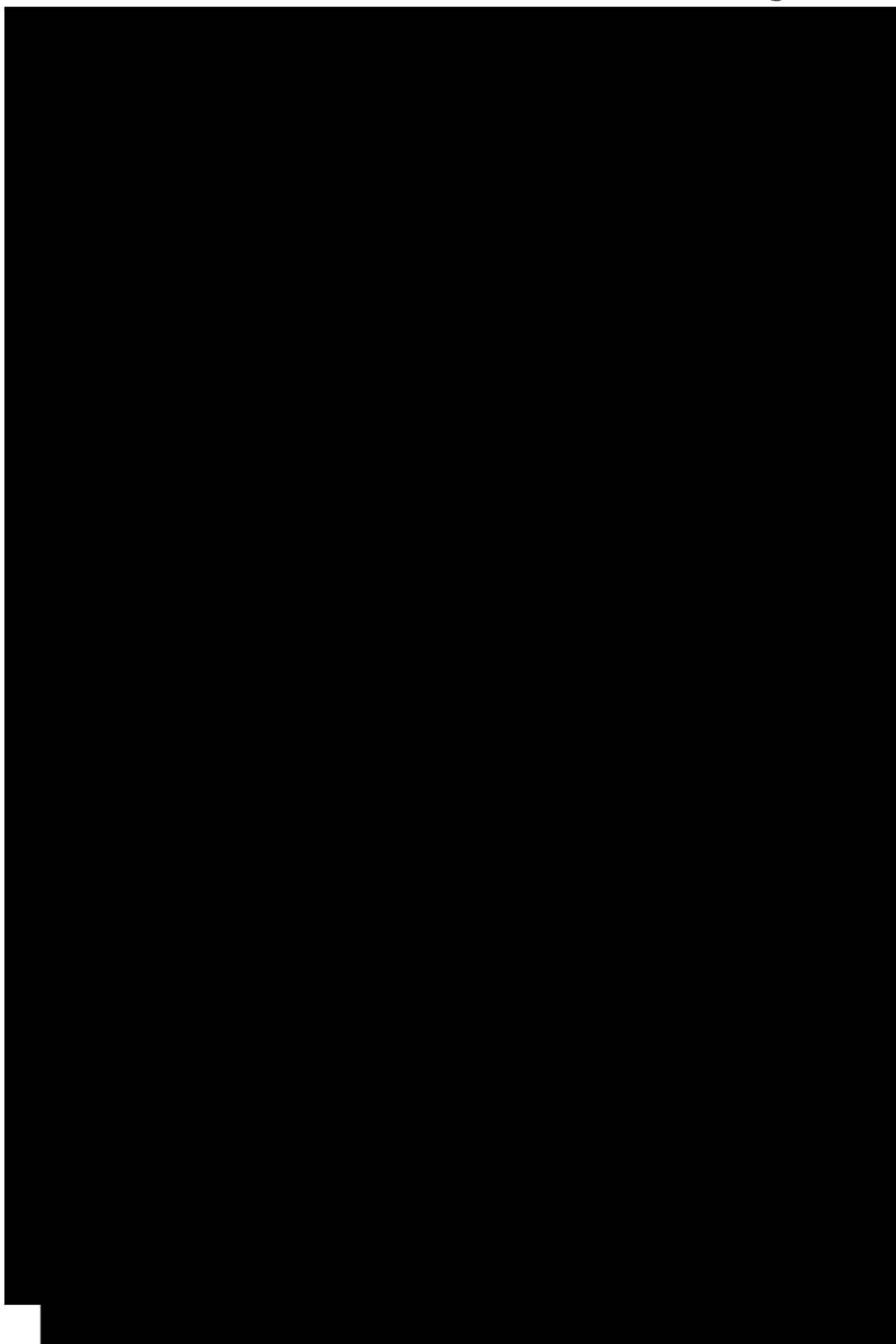
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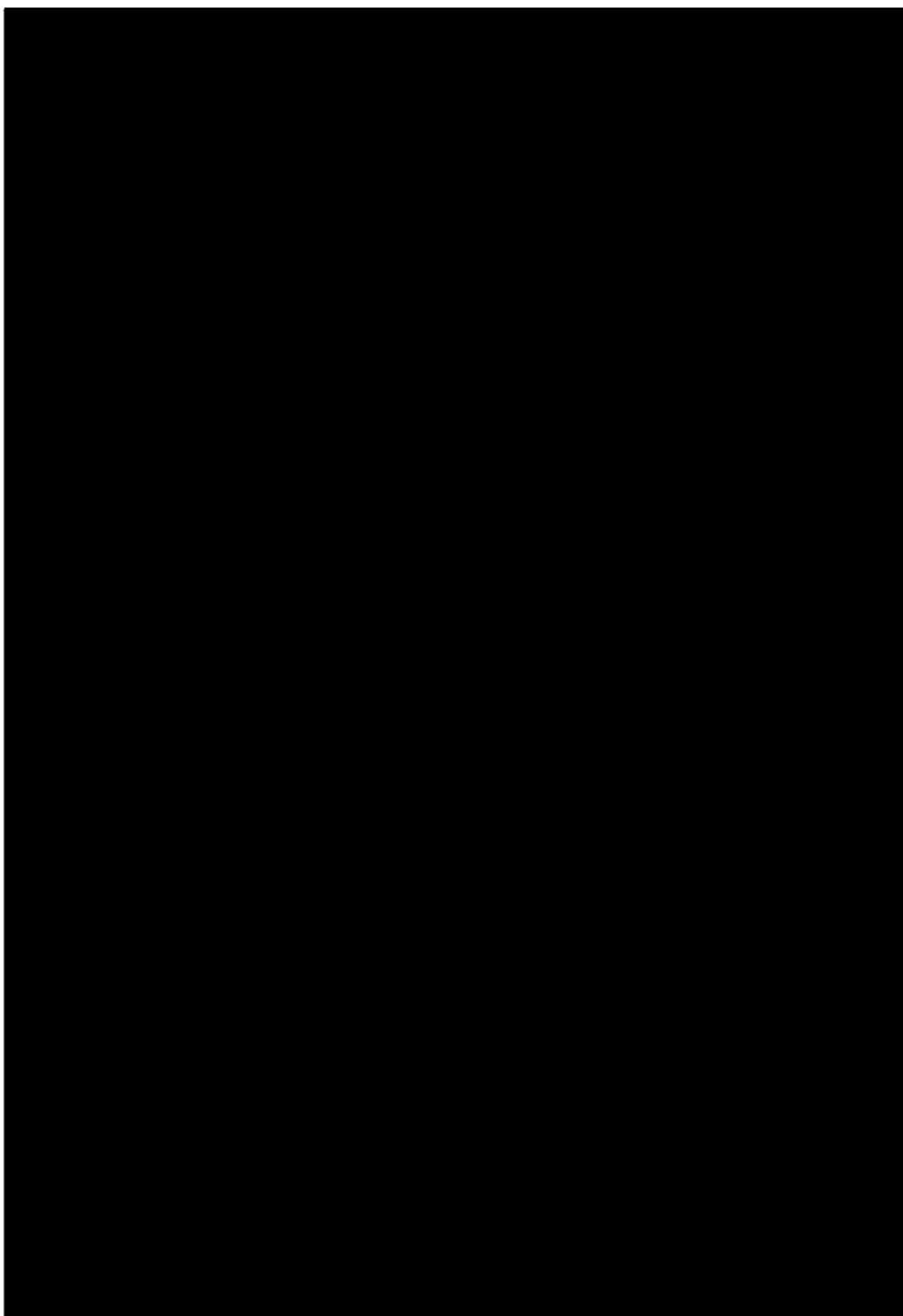
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15 BY MR. COLLIER:

16 Q. I'm going to hand you what has
17 been marked tab R. And this will be Exhibit
18 427.

19 (Google, [REDACTED] Deposition

20 Exhibit 427, PowerPoint, [REDACTED]

21 [REDACTED] USDOJ-GOOGEX-000253 -

22 USDOJ-GOOGEX-000304, was marked for
23 identification.)

24 BY MR. COLLIER:

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23 MR. COLLIER: Okay. All right.

24 Let's take -- it's 11:00. Let's take

25 a five- or ten-minute break, whatever

1 you want, and I'll move around some
2 documents.

3 THE WITNESS: Okay.

4 THE VIDEOGRAPHER: Going off
5 the record. The time is 11:00.

6 (Recess taken, 11:00 a.m. to
7 11:08 a.m. PDT)

8 THE VIDEOGRAPHER: We are going
9 back on the record. The time is
10 11:08.

11 BY MR. COLLIER:

12 Q. [REDACTED] is it fair to define
13 Google Chat as a communications instant
14 messaging tool?

15 A. Yeah, that sounds right.

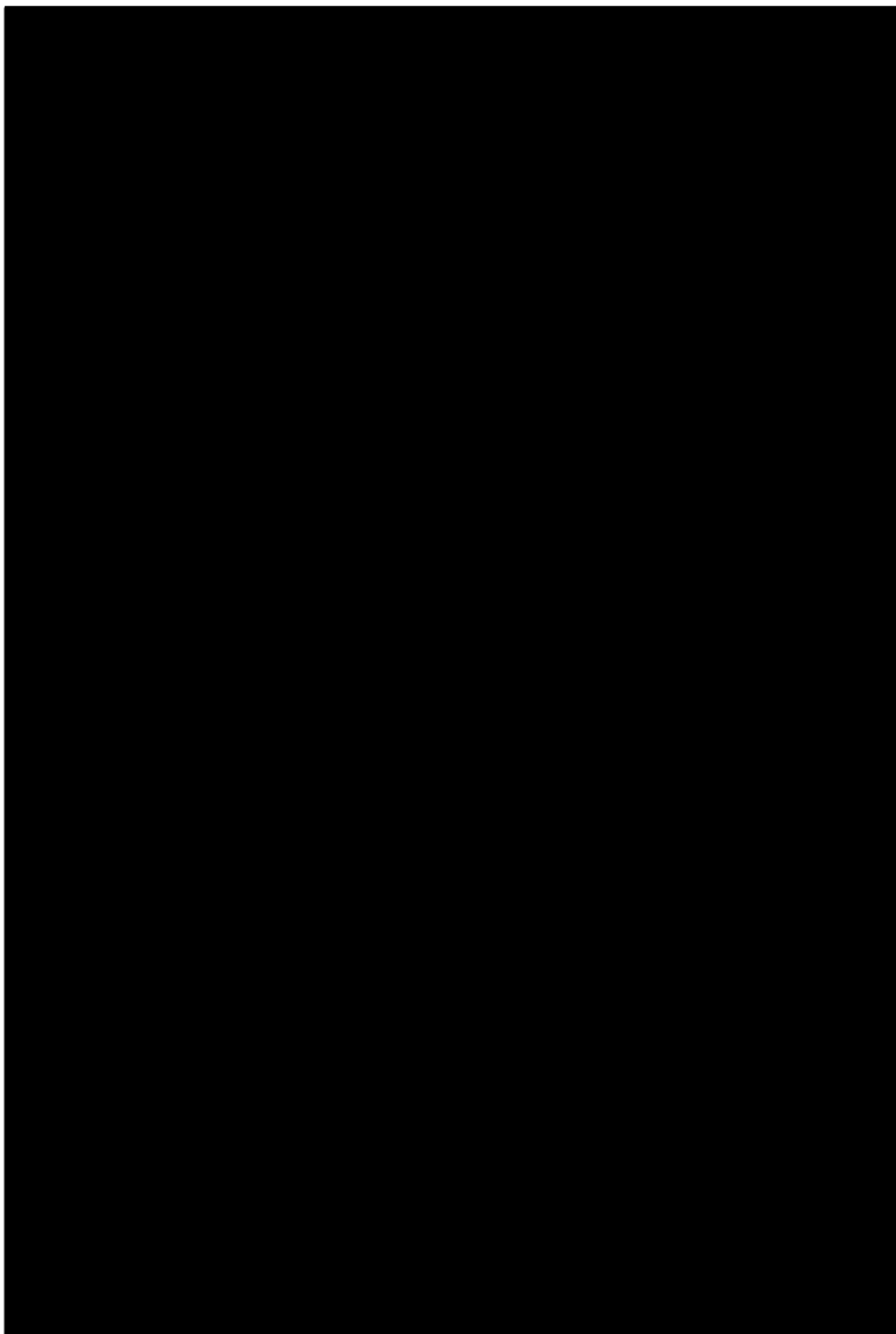
16 Q. And the reason Google offers
17 Google Chat as a tool for its employees is to
18 enhance collaboration and communication among
19 employees?

20 A. I don't know if they've used
21 that exact words, but that's been my
22 experience, yes.

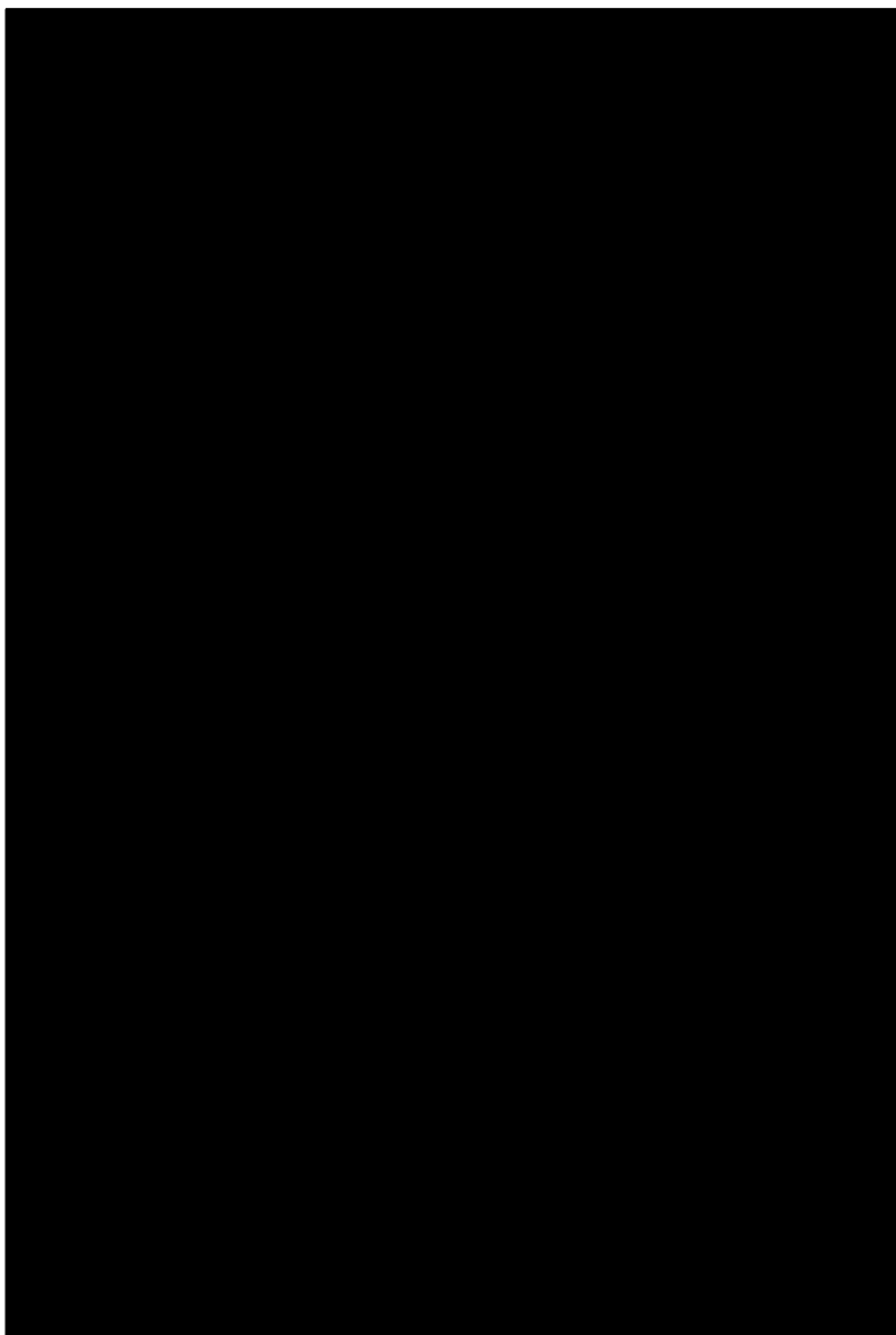
23 Q. Okay. Let's go to Exhibit 416,
24 if that's your transcript.

25 Okay. If you want to go, it's

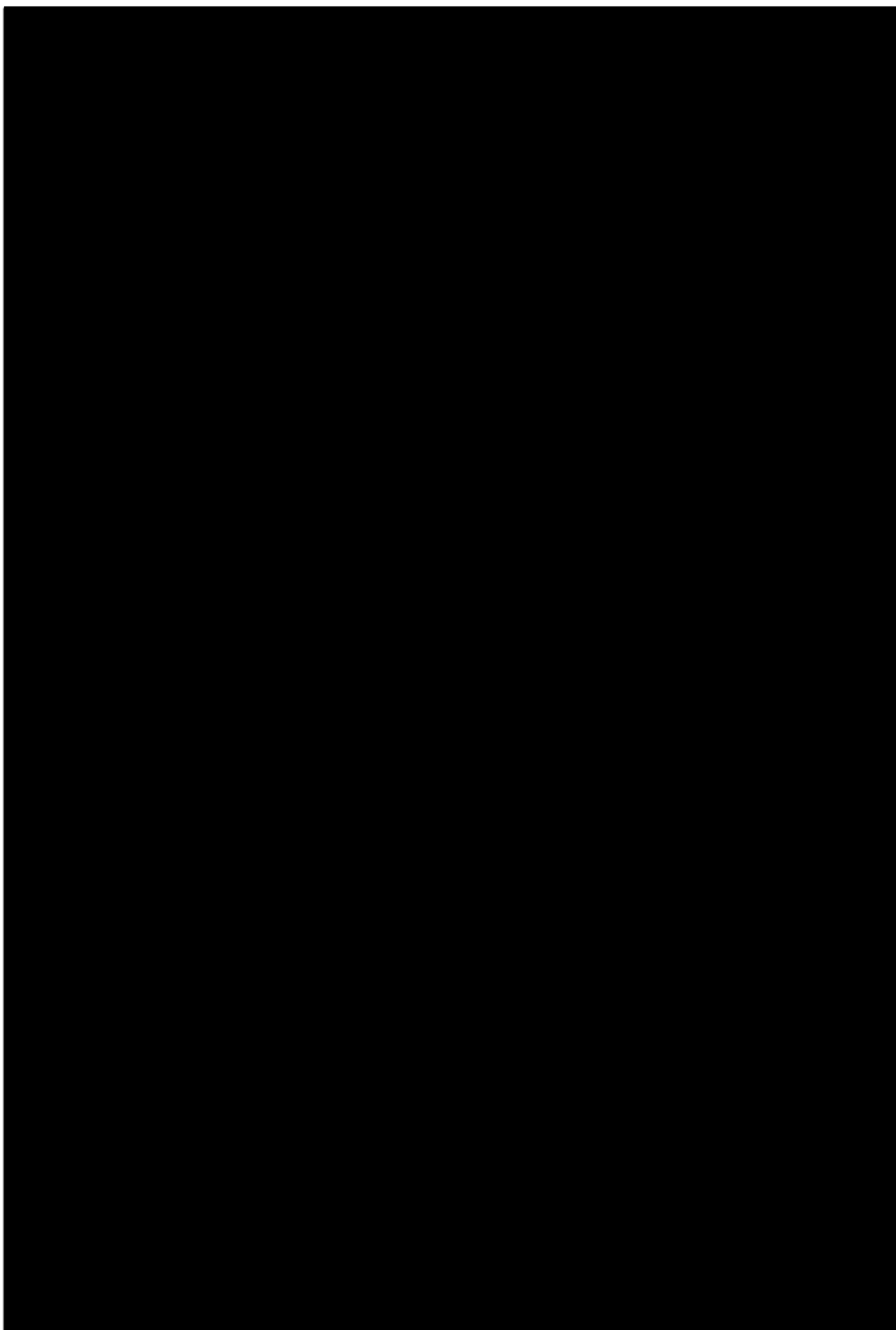
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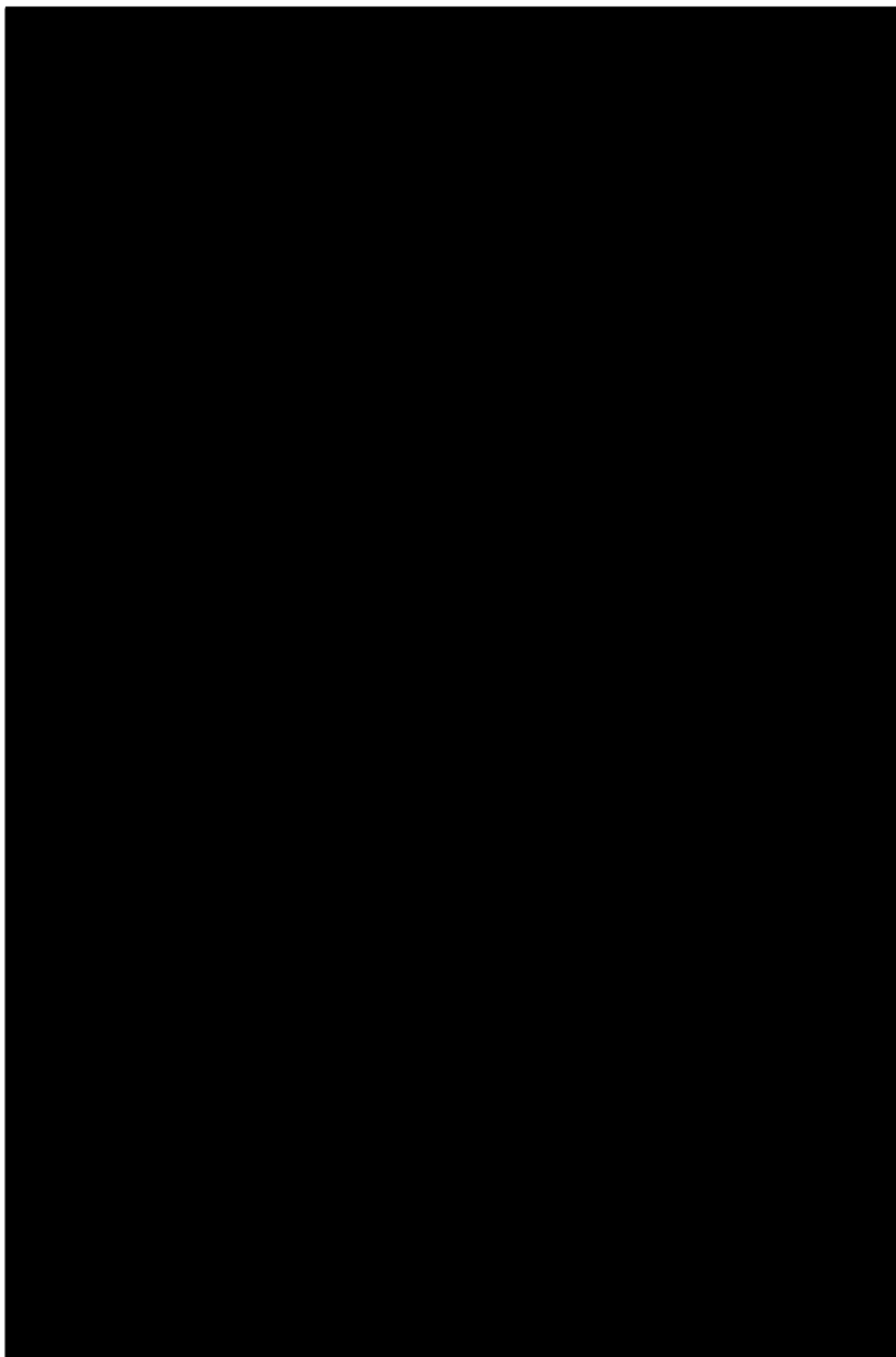
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21 BY MR. COLLIER:

22 Q. Let's go back to Exhibit 416,
23 your testimony before Judge Donato.

24 Ask you to go to page 68. Look
25 at lines 11 to 13.

1 A. Mm-hmm.

2 Q. And you were asked: And
3 they -- meaning Google employees -- know that
4 off-the-record chats are not retained, right?

5 And what did you answer?

6 A. I said: I assume so.

7 Q. Is that truthful testimony?

8 A. Yes.

9 Q. Would you agree with me that
10 information in chats could remain potentially
11 useful forever?

12 MR. MCCALLUM: Object to the
13 form.

14 A. I couldn't say if -- I mean,
15 I'd have to look at specific instances to
16 give you that answer.

17 BY MR. COLLIER:

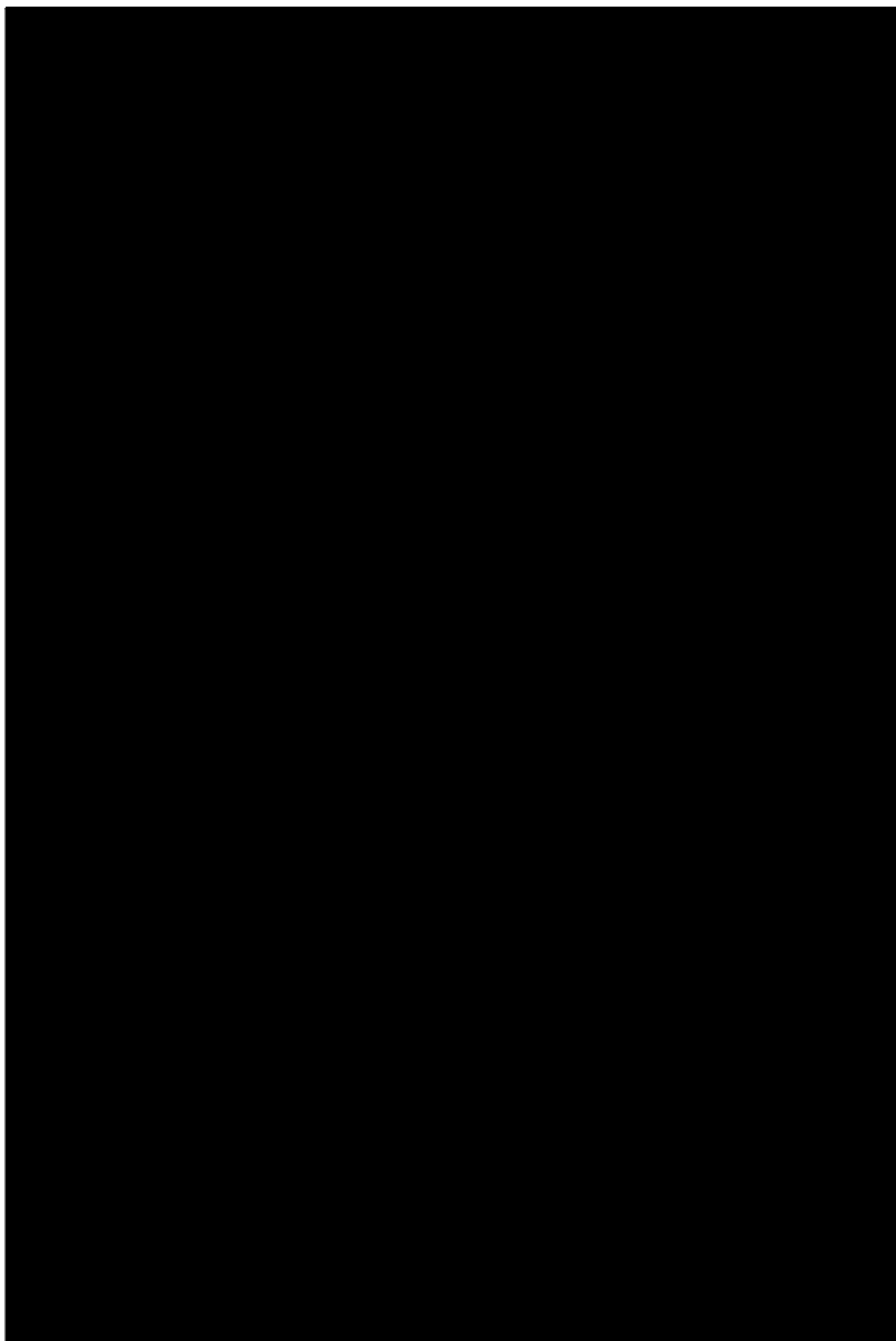
18 Q. Well, as the information
19 governance lead, you'd agree with me that
20 chats can contain potentially relevant
21 information, either for or against Google, in
22 ongoing litigation, right?

23 A. In theory, yes.

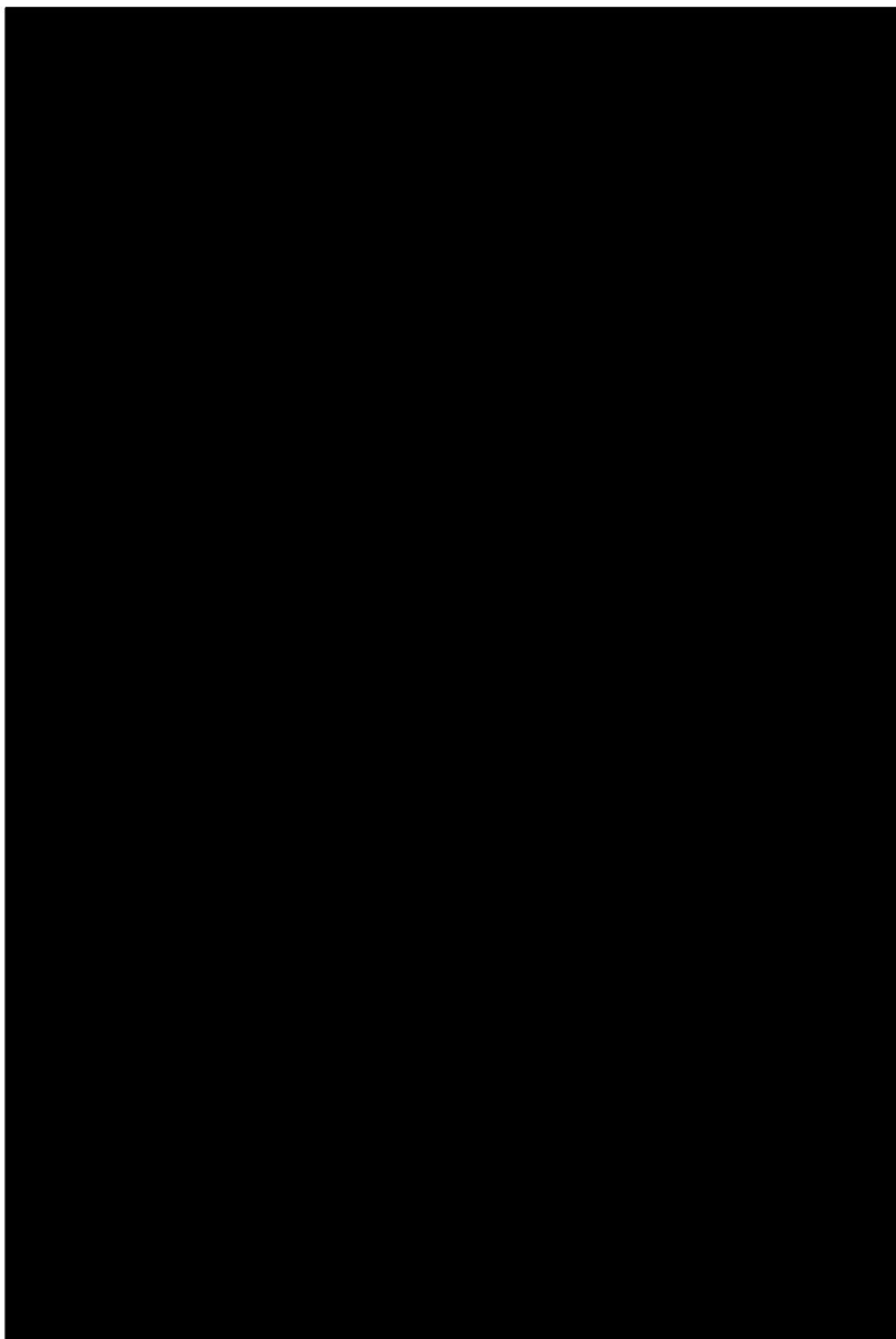
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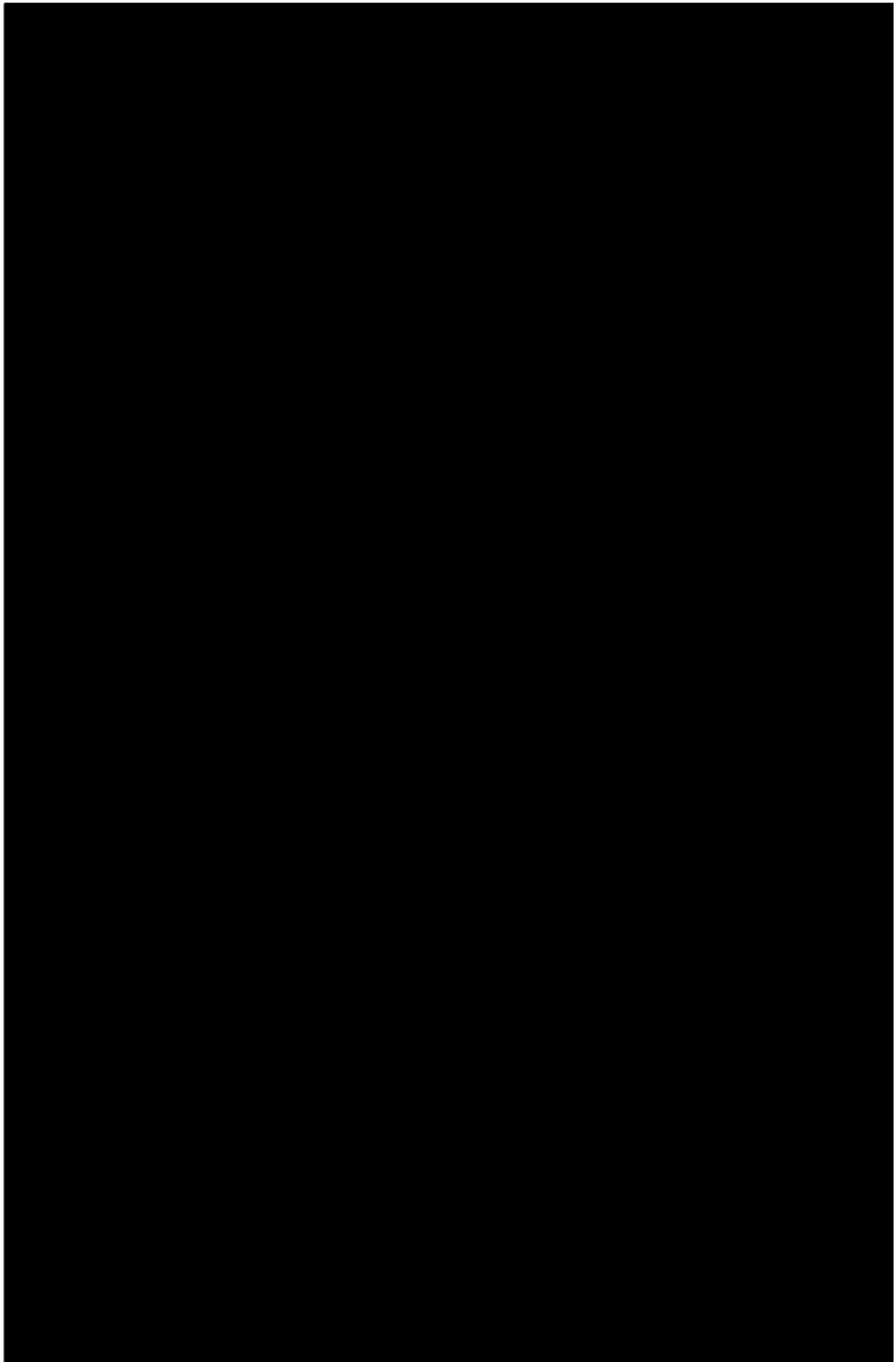
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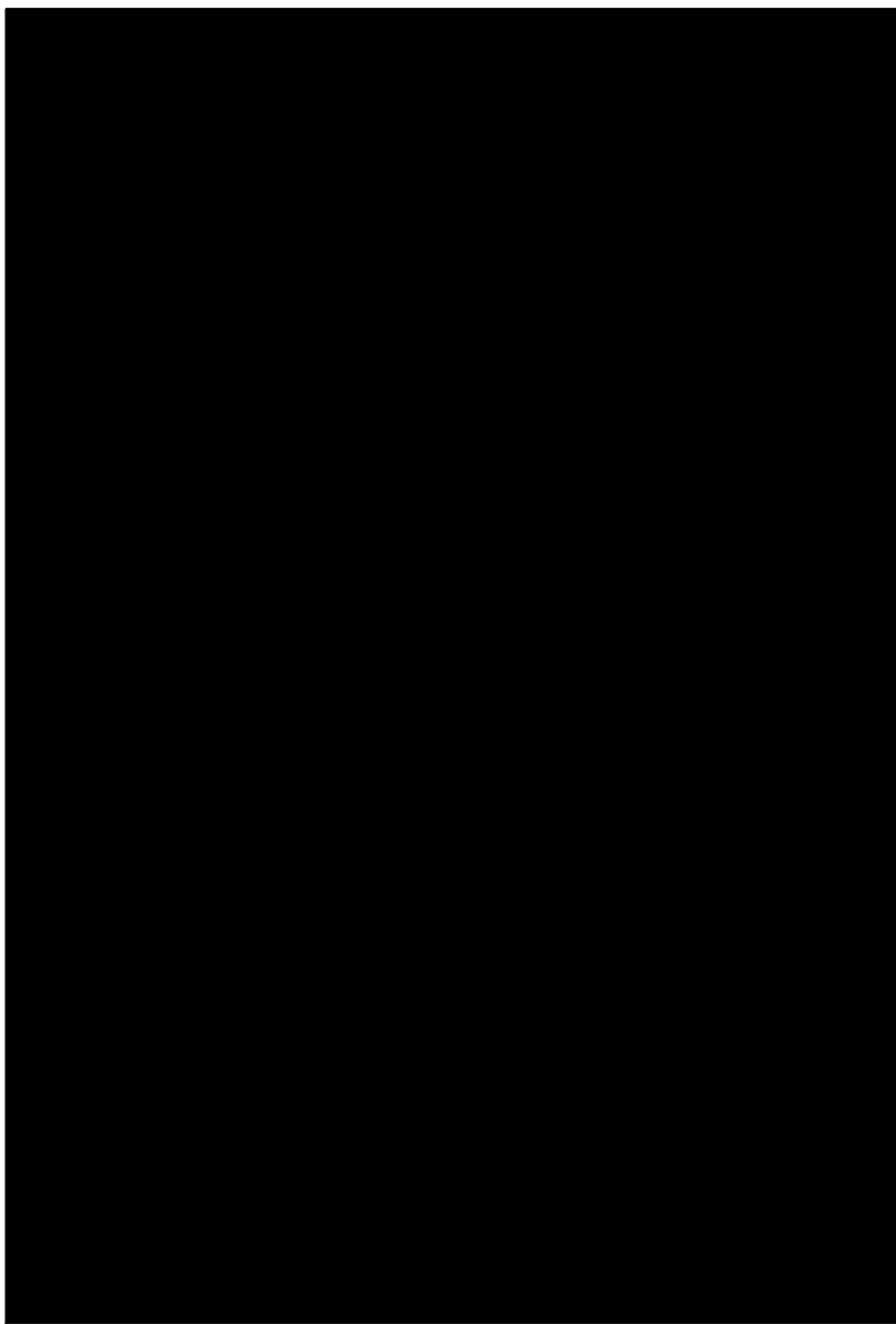
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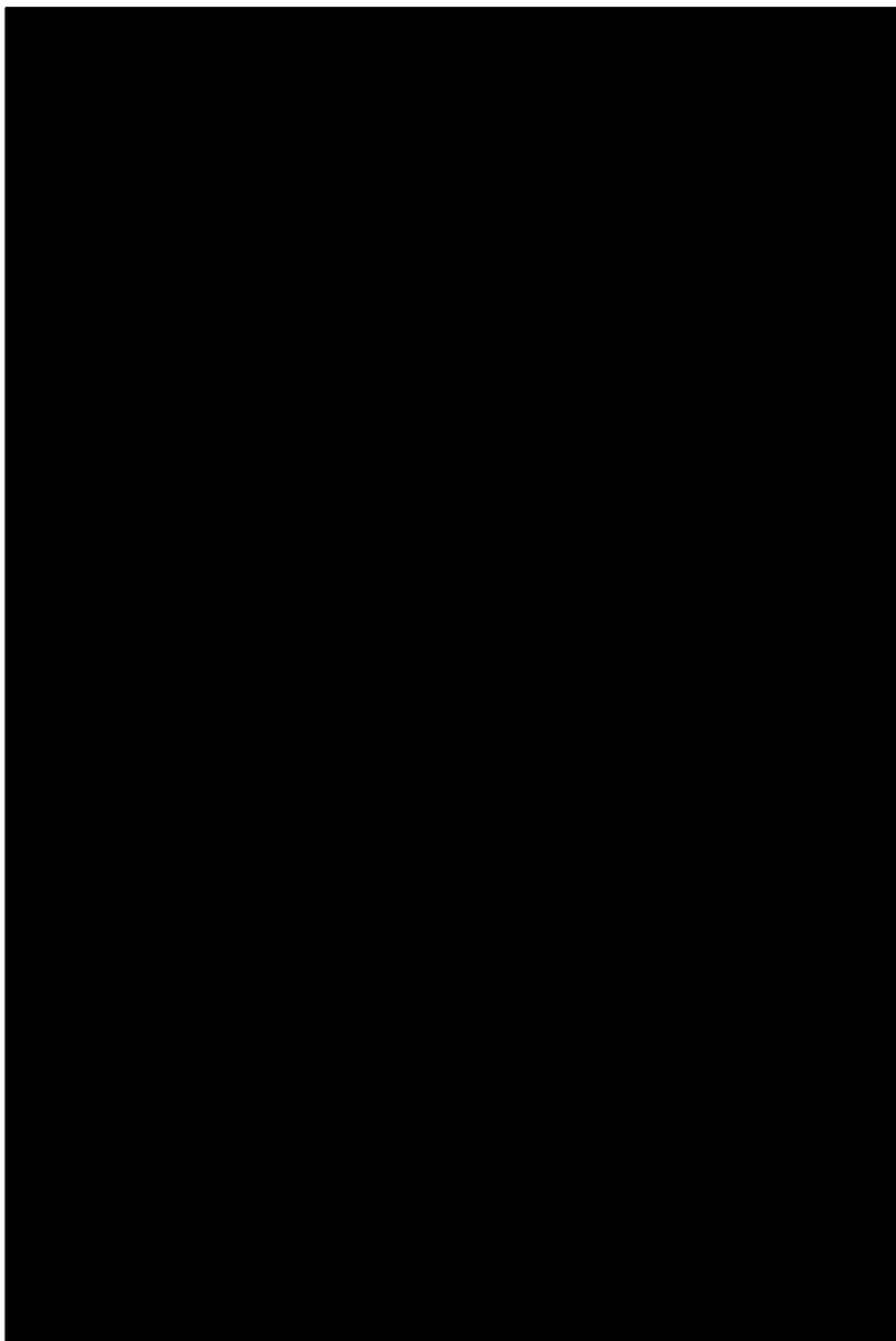
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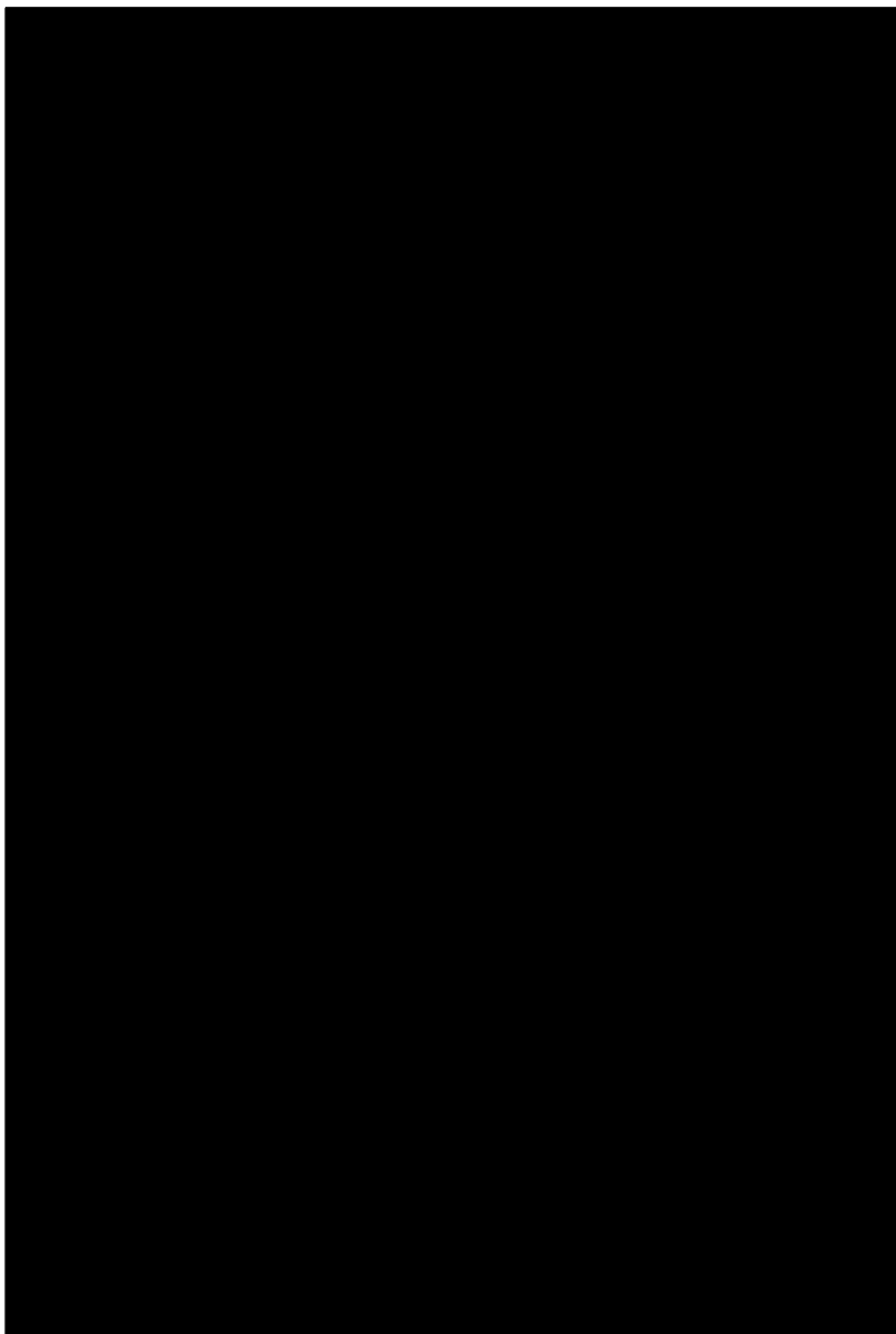
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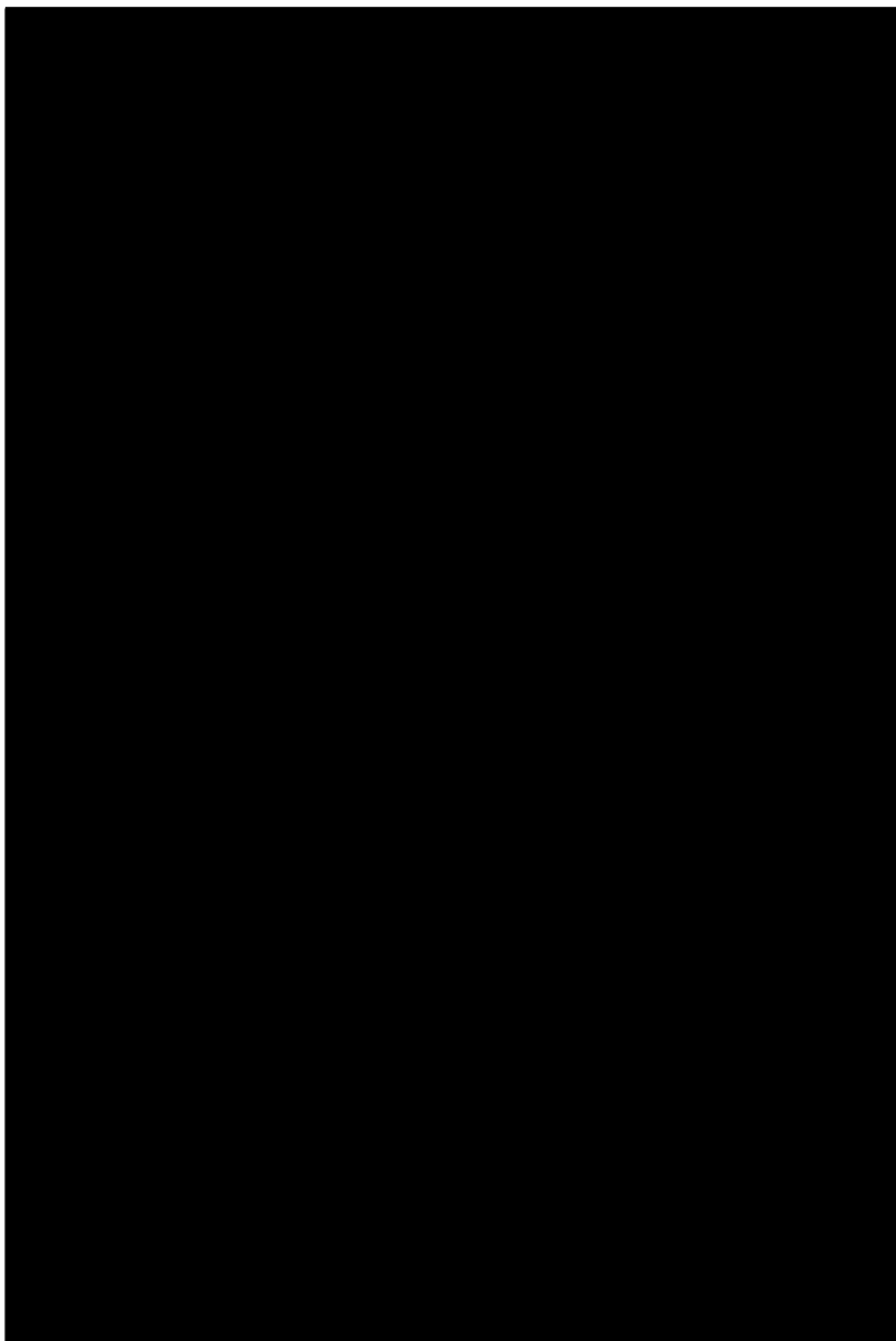
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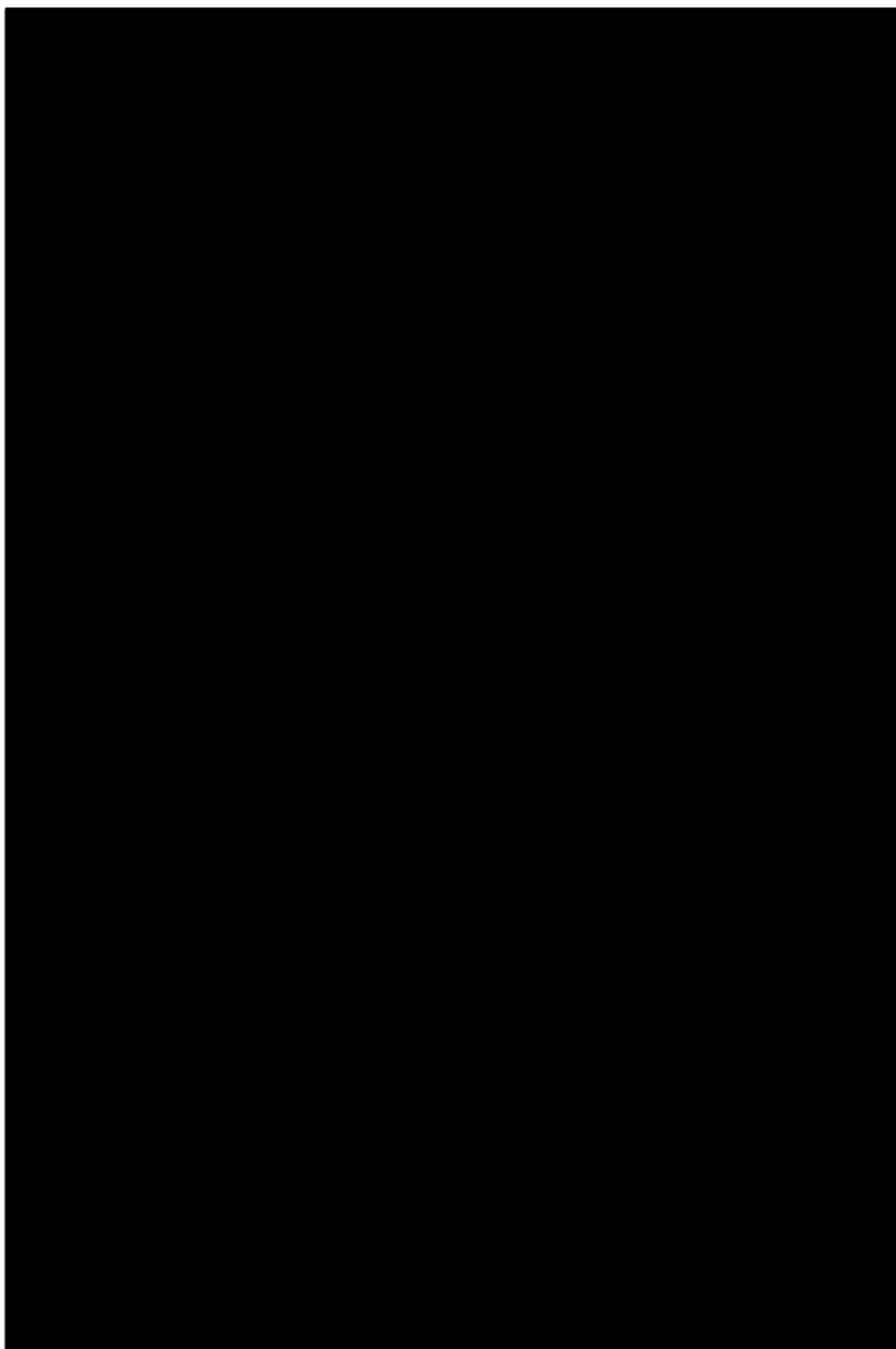
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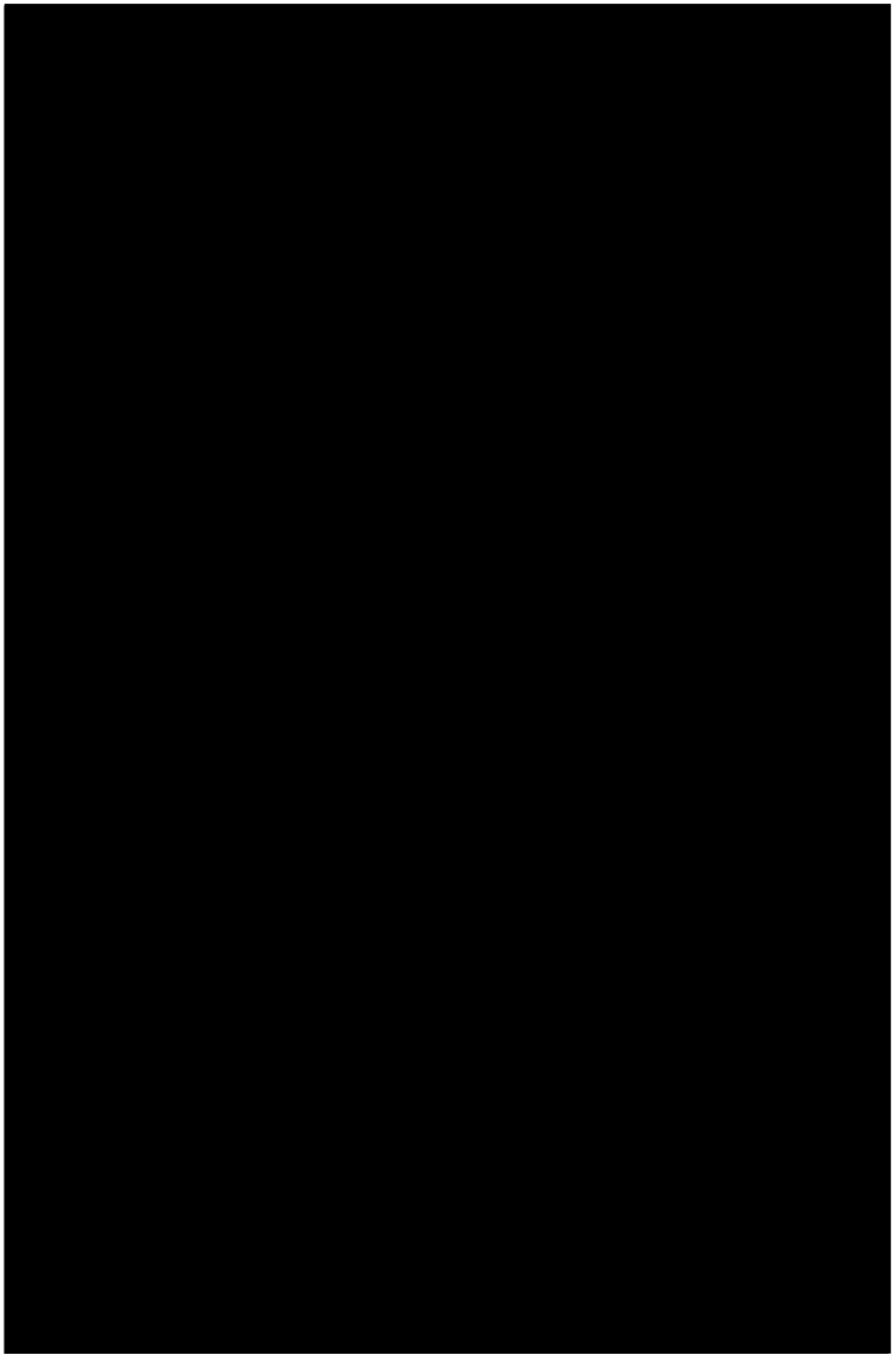
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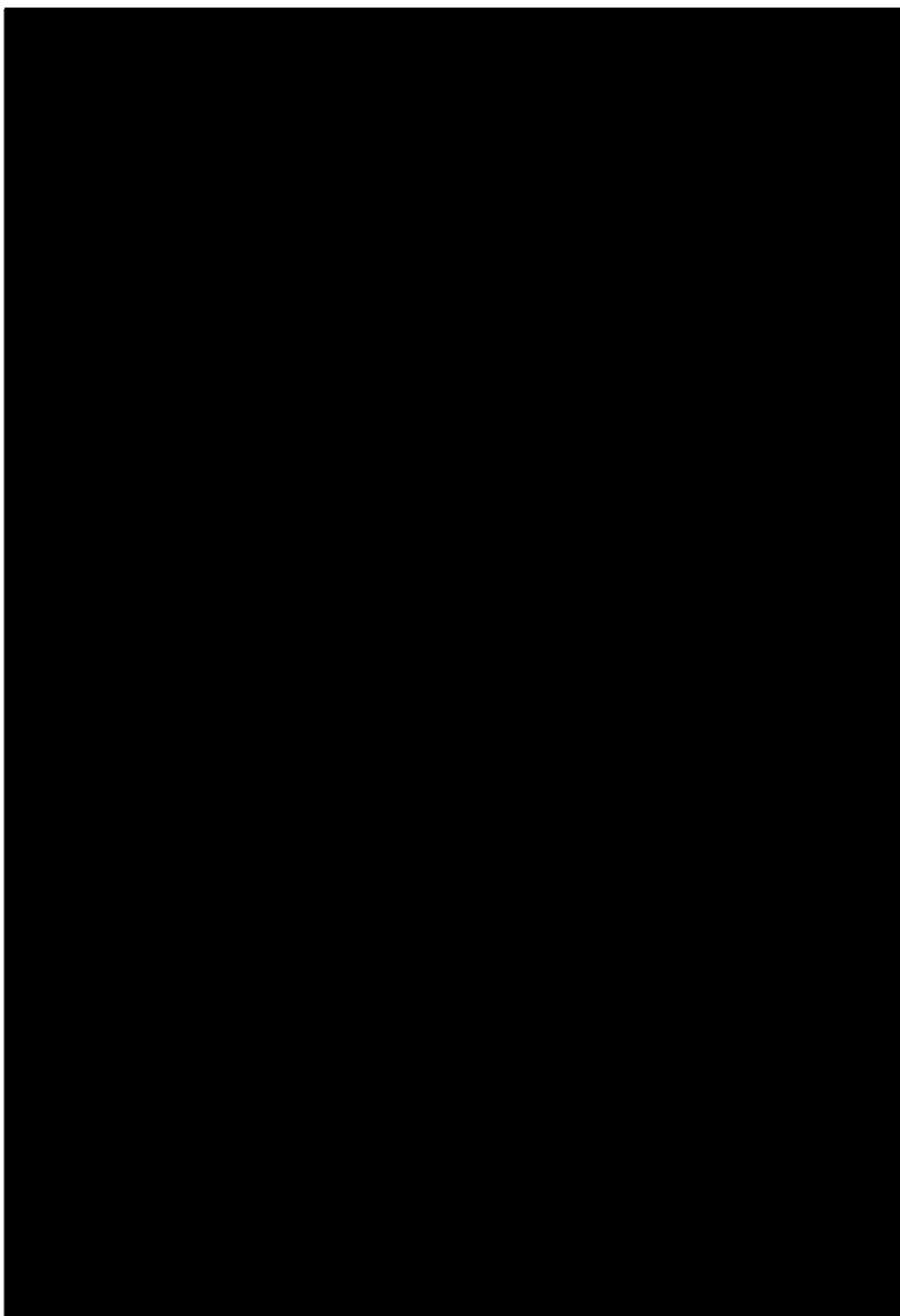
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MR. COLLIER: I'm going to take
a break just because I'm going to
cough.

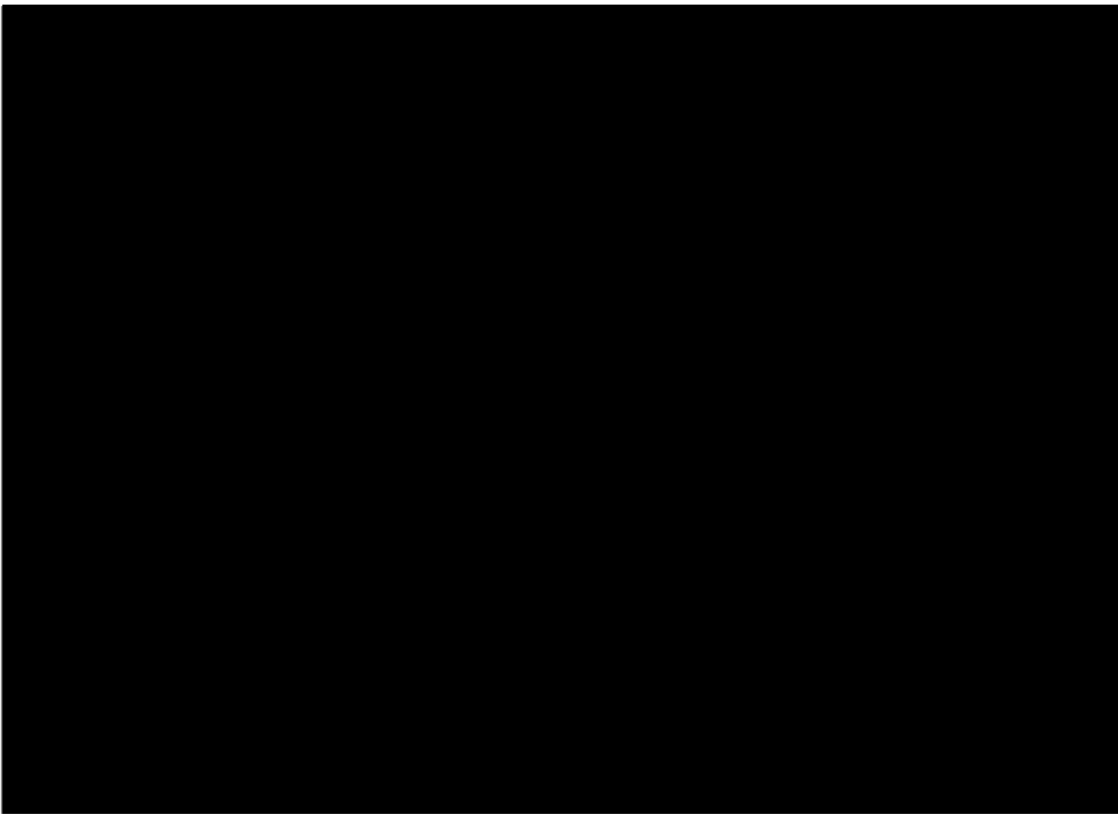
THE VIDEOGRAPHER: We're going
off the record. The time is 1:28.

(Recess taken, 1:28 p.m. to

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BY MR. COLLIER:

Q. Are you aware of the -- you testified in the Epic case, the federal court case we talked about.

Do you recall that?

A. Mm-hmm.

Q. Do you know what overlap there is in the custodians in the Epic or the Google Play Store case that you testified in and in the case we're here about, Texas antitrust case?

A. No, I don't.

Q. In the Epic case, there is

1 testimony about a system-wide backend log.

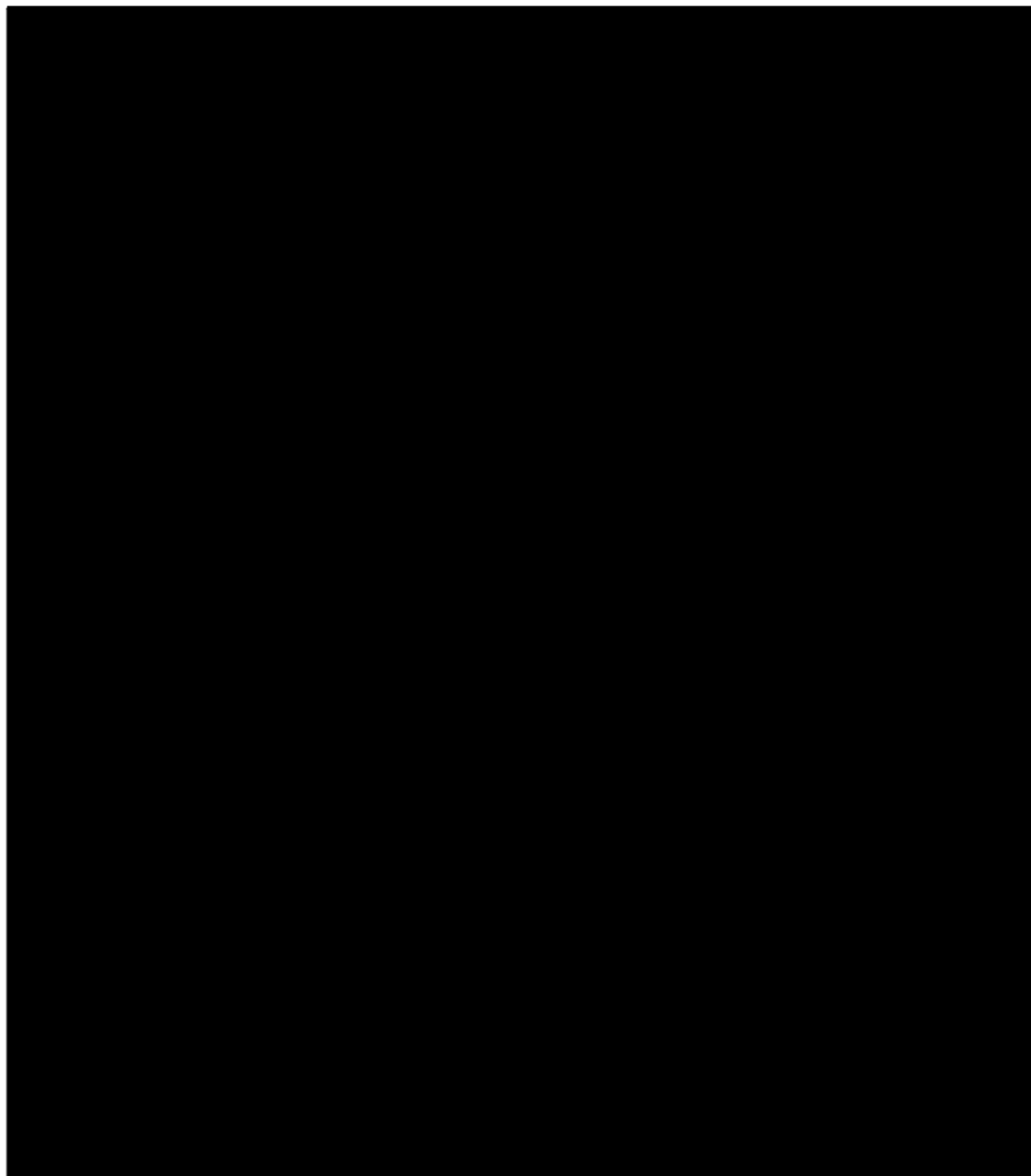
2 Are you familiar with that?

3 MR. MCCALLUM: Objection to
4 scope.

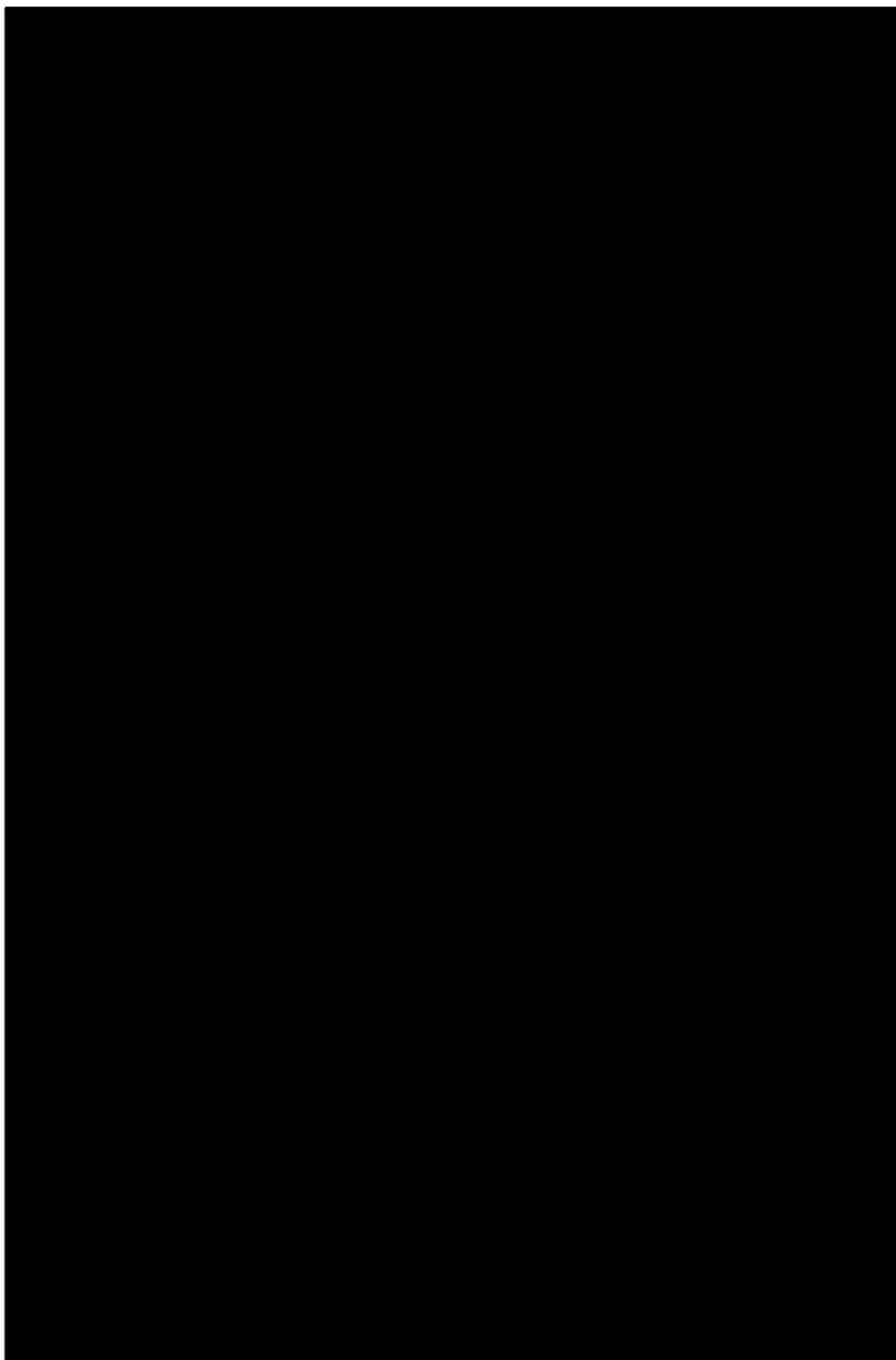
5 A. I'm familiar with logs, yes.

6 BY MR. COLLIER:

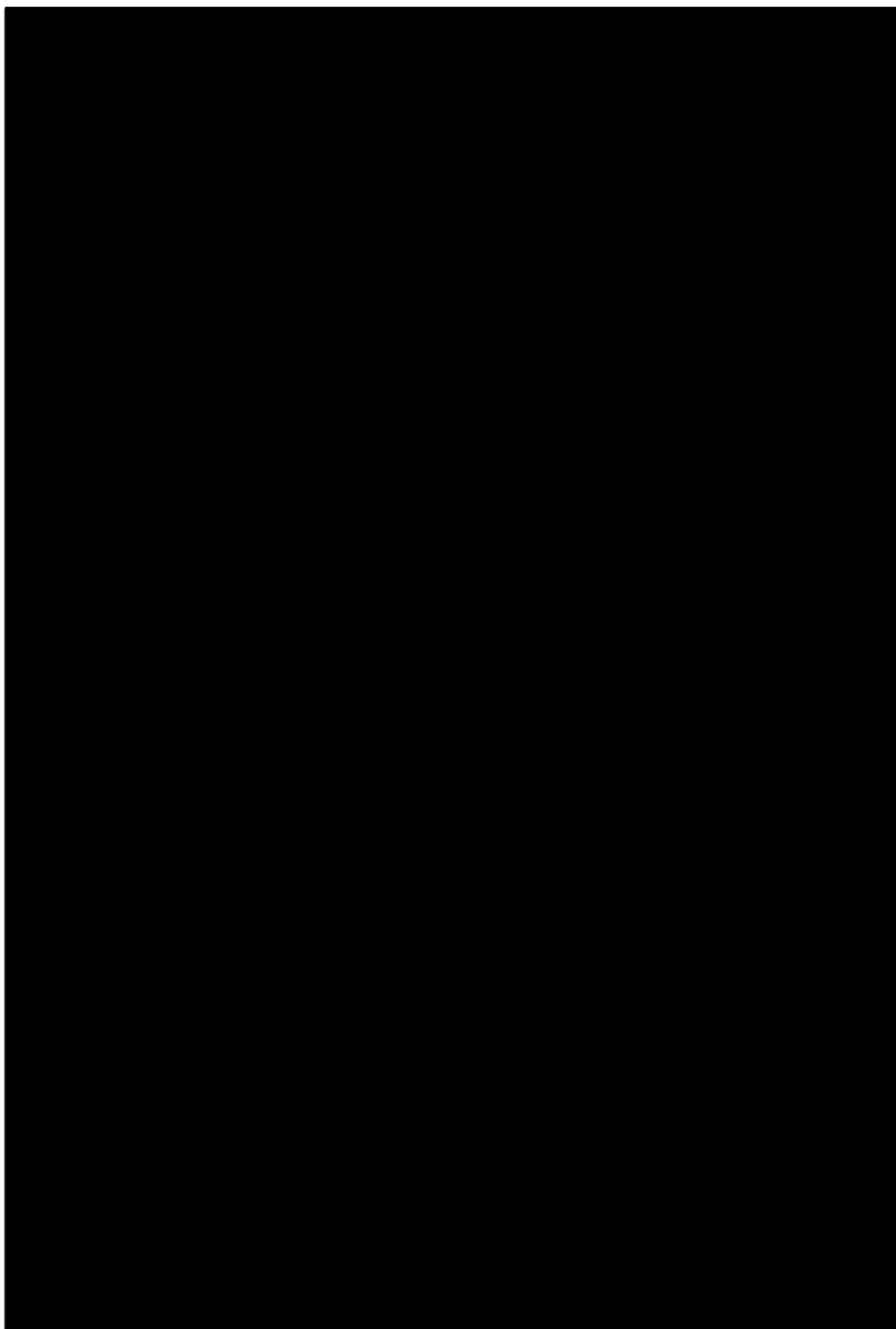
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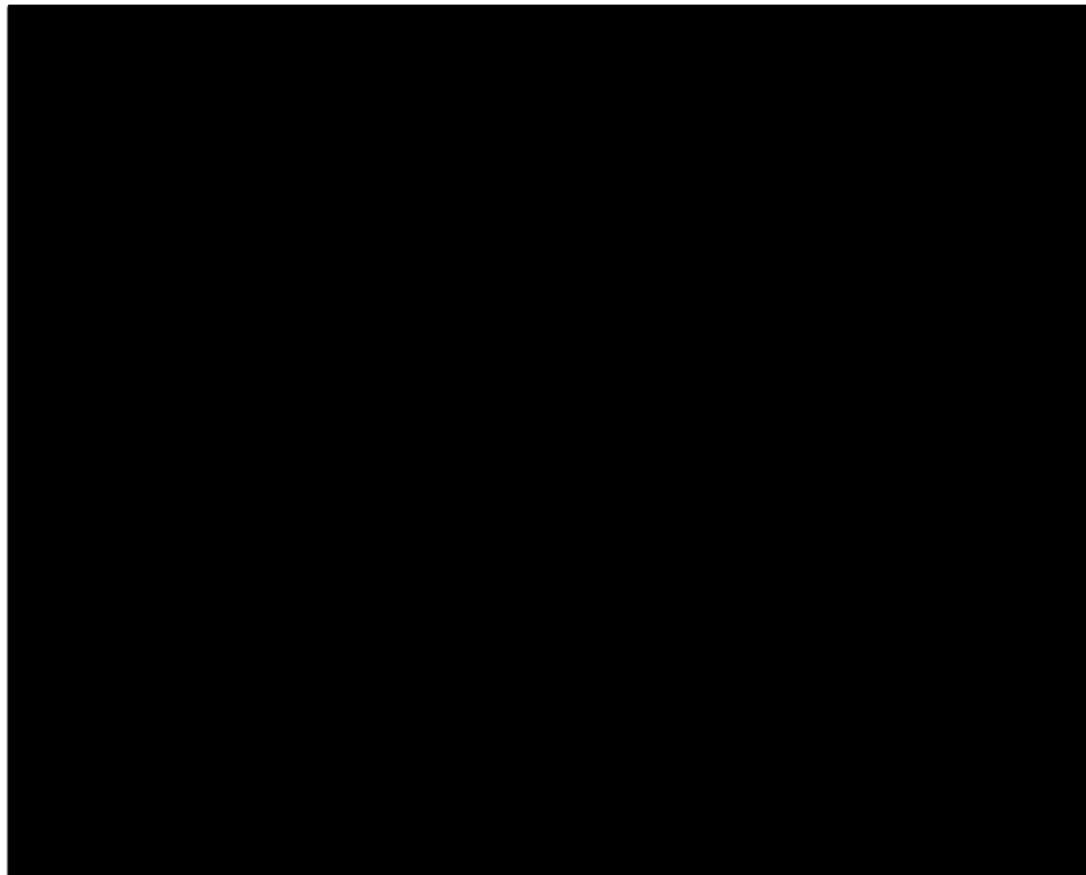


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14 Q. All right. I'm going to hand
15 you tab NNN, which we will mark as
16 Exhibit 438.

17 (Google/ [REDACTED] Deposition
18 Exhibit 438, Findings of Fact and
19 Conclusions of Law Re Chat
20 Preservation, was marked for
21 identification.)

22 BY MR. COLLIER:

23 Q. Tell me when you've had a
24 chance to look at it.

25 [Document review.]

1 A. I've taken a look at the first
2 couple of pages. I mean, I can keep reading
3 if you want me to read all of it.

4 BY MR. COLLIER:

5 Q. Well, let me just ask this
6 question then.

7 A. Okay.

8 Q. Have you ever seen Exhibit 438
9 before today?

10 A. I haven't read it personally,
11 no.

12 Q. Do you -- I'll represent to
13 you, as the title says, that this is the
14 Court's Finding of Fact and Conclusions of
15 Law Re chat preservation.

16 A. Yes.

17 Q. And you know that this is based
18 on, in part, the hearing in which you
19 testified, right?

20 MR. MCCALLUM: Object to the
21 scope.

22 A. That's right.

23 BY MR. COLLIER:

24 Q. And at no point after you
25 testified did you ask to review what the

1 employees as a single collection.

2 BY MR. COLLIER:

3 Q. Okay. Let's go to paragraph 14
4 on page 6.

5 The Court found that, the first
6 sentence: Google Chat is an essential tool
7 used daily by Google employees.

8 Do you have any reason to
9 disagree with that?

10 MR. MCCALLUM: Object, scope.

11 A. In my personal experience,
12 that's correct.

13 BY MR. COLLIER:

14 Q. Okay. Paragraph 15.

15 The Court found: There are no
16 restrictions on the content and topics on
17 Chat, hearing transcript at 47:2-10. Parens,
18 Chat can be used for, quote, anything under
19 the sun that employees want to communicate,
20 end quote.

21 Is that accurate?

22 MR. MCCALLUM: Objection,
23 scope.

24 A. Yes, the product does not
25 restrict you from typing in anything that you

1 might be interested in communicating.

2 BY MR. COLLIER:

3 Q. Nor does Google. Right?

4 You can -- Google employees can
5 use Google Chat for business things, right?

6 A. Correct.

7 Q. Birth announcements, which are
8 not a Google business thing, right?

9 A. Correct.

10 Q. Paragraph 29 on page 9.

11 Now, the first sentence here
12 says: Google has the technical ability to
13 set Chat history to, quote, on, as the
14 default for all employees who are subject to
15 a legal hold, but it chooses not to, period.

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21 BY MR. COLLIER:

22 Q. Let's go to paragraph 32.

23 The Court found: Google did
24 not check to see if custodians were actually
25 preserving relevant Chats as directed by the

1 hold notice, and did nothing in the way of
2 auditing or monitoring Chat preservation.

3 MR. MCCALLUM: Objection,
4 scope.

5 A. Is there a question?

6 BY MR. COLLIER:

7 Q. There is a question. Under
8 oath, sir, is this finding by the Court true,
9 or not?

10 MR. MCCALLUM: Objection to
11 scope.

12 A. Well, as we've discussed, there
13 is no technical ability to monitor the
14 content of chats to determine relevance in
15 the normal course of business.

16 BY MR. COLLIER:

17 Q. And then the second sentence
18 says: There is no evidence establishing that
19 Google did any individualized follow-up on
20 Chat preservation with the hold recipients,
21 including those designated as custodians.

22 Is that true, sir?

23 MR. MCCALLUM: Objection,
24 scope.

C E R T I F I C A T E

I, DEBRA A. DIBBLE, RDR, CRR, CRC,
Notary Public, do hereby certify:

That [REDACTED], the witness
whose deposition is hereinbefore set forth,
was duly sworn by me and that such deposition
is a true record of the testimony given by
such witness;

That pursuant to FRCP Rule 30,
signature of the witness was not requested by
the witness or other party before the
conclusion of the deposition;

I further certify that I am not
related to any of the parties to this action
by blood or marriage, and that I am in no
way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have
hereunto set my hand on 18th day of May,
2024.



Debra A. Dibble TX CSR-10777
Fellow of the Academy of Professional
Reporters
Registered Diplomate Reporter
Certified Realtime Reporter
Notary Public 11/17/2027